

Office of the City Council

Via Hand Delivery

The Honorable Kirsten Keith
Mayor
City of Menlo Park
701 Laurel St.
Menlo Park, CA 94025

Dear Mayor Keith:

The City of East Palo Alto appreciates the opportunity to submit the enclosed comments on the Draft Environmental Impact Report (DEIR) prepared for the Facebook Campus Project in the City of Menlo Park.

Given the close proximity of the Project, East Palo Alto is concerned that the Project threatens our city with a variety of impacts, particularly impacts on traffic, housing, and air quality. As indicated in the attached opinion letter from the law firm of Shute, Mihaly & Weinberger LLP, which we have retained to advise us on the Project's CEQA analysis, the DEIR raises a variety of serious legal and public policy questions (Attachment 1). I am also enclosing a letter report prepared by East Palo Alto's traffic consultants, CHS Consulting Group, providing technical comments on the DEIR's traffic analysis (Attachment 2). Those comments highlight the potentially serious impact of the Project on traffic in our community. Finally, I am attaching the staff report for the January 24, 2012 East Palo Alto City Council meeting that identifies several additional concerns about DEIR raised by East Palo Alto staff (Attachment 3).

Nevertheless, East Palo Alto, Facebook, and Menlo Park have already begun what we hope to be productive discussions about the Project and East Palo Alto's concerns about the Project's potential impacts. The comments we submit today should not be read as cutting off that dialogue or suggesting that East Palo Alto is implacably opposed to the Project. Rather, because of the impending end of the comment period on the DEIR, and the early stage of discussions among the parties, East Palo Alto must submit its comments now to ensure that the record reflects its concerns in the event that the parties cannot reach agreement.

I want to emphasize that East Palo Alto values its relationship with Menlo Park, and we hope to continue to work cooperatively on the many issues common to both of our communities. We are accordingly prepared to work hard to resolve our concerns through good faith negotiations with Menlo Park and Facebook. In light of that prospect, East Palo Alto reserves the right to withdraw the enclosed comments by a further letter.

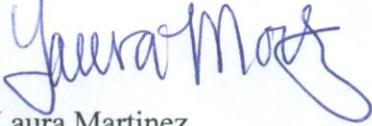
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Thank you for your consideration of our comments. We look forward to further conversations on this topic with important ramifications for both of our cities.

Yours very truly,



Laura Martinez
Mayor
City of East Palo Alto

cc: William McClure, Esq., City Attorney, City of Menlo Park
Rachel Grossman, Associate Planner, City of Menlo Park
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ATTACHMENT 1

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January 30, 2012

Honorable Laura Martinez
Mayor
City of East Palo Alto
2415 University Avenue
East Palo Alto, CA 94303

Re: Comments on the Draft Environmental Impact Report for the Facebook Campus Project

Dear Mayor Martinez:

The City of East Palo Alto (“City”) has asked us to review and comment on the Draft Environmental Impact Report (“DEIR”) prepared by the City of Menlo Park for the Facebook campus project (“Project”). Working with City staff, we have reviewed substantial portions of the document for its compliance with the requirements of the California Environmental Quality Act (“CEQA”). As set forth in more detail below, we have concluded that the DEIR is inadequate in several important respects.

SUMMARY

We have found a variety of deficiencies in the document, virtually all of which tend to understate the Project’s environmental impacts or avoid requiring the Project to implement measures to mitigate those impacts. Please note that we have not reviewed the entire DEIR, but rather have focused our review on impacts and other portions of the document most relevant to the City. Accordingly, the omission of comments on other portions of the document should not be construed to mean that we found those portions to comply with CEQA.

Our comments are set forth in full below. The most significant of those comments are summarized as follows:

- ***Project Description.*** The DEIR improperly breaks the Project into pieces and declines to analyze the impacts of construction at the East Campus portion of the Project. This violates CEQA, which requires that an EIR evaluate “the whole of the project” and not divide the project up in ways that minimize the significance of its impacts. Menlo Park has apparently already issued building permits and other entitlements for the East Campus and construction has already begun—both appear to be in violation of CEQA. Regardless, the EIR must evaluate the impacts of the *entire* Project, including construction at the East Campus.
- ***Baseline.*** For the East Campus, the DEIR uses as a baseline the operation of the Project site by Sun Microsystems prior to 2009, two years before the CEQA analysis for this Project began. This is inconsistent with the general rule that the baseline—the circumstances against which the project’s impacts are measured—is the actually existing conditions at the time environmental review commences. The DEIR fails to justify, by reference to substantial evidence, its departure from this well-established rule. The DEIR’s choice of a baseline artificially minimizes the Project’s environmental impacts and thus distorts its analysis of many categories of environmental impact.
- ***Traffic Impacts.*** The DEIR’s traffic analysis suffers from several significant flaws:
 - The traffic analysis creates an artificial baseline of vehicle trips that would have been allowable under the existing entitlements for the Sun Microsystems campus, rather than the number of *actual* vehicle trips occurring in the baseline condition. This is inconsistent with recent California Supreme Court precedent. It also causes the Project’s traffic impacts to appear substantially less severe than they otherwise would.
 - The traffic analysis does not account for the bus and van trips that would shuttle employees to and from the campus. This omission causes the Project’s traffic impacts to appear substantially less severe than they otherwise would.
 - The DEIR ignores mitigation measures that would reduce the severity of traffic impacts from the Project, including those in

neighboring jurisdictions such as East Palo Alto, that the DEIR concludes are significant and unavoidable. The DEIR relies almost entirely on proposals to expand roadways and redesign intersections, rather than proposing to reduce the vehicle trips generated by the Project. The DEIR inexplicably fails to propose reducing the proposed vehicle trip cap for the East Campus, which would at least partially mitigate traffic impacts.

- ***Housing Impacts.*** The DEIR understates the impact of the Project on housing in the Project vicinity in part because it relies on unreliable generic data rather than available Project-specific data. The DEIR fails to acknowledge impacts to East Palo Alto in their entirety. It also spreads the impact of the Project over 15 years rather than the five years in which the Project is anticipated to be fully occupied, thus diluting the apparent severity of the impact on housing in local communities.
- ***Air Quality Impacts.*** The DEIR ignores feasible measures to reduce the severity of the air quality impacts caused principally by traffic generated by the Project. The flaws in the traffic analysis also cause the air quality analysis to significantly understate likely air quality impacts associated with vehicle emissions.
- ***Climate Change Impacts.*** In several ways, the DEIR understates the greenhouse gas (“GHG”) emissions attributable to the Project and thus its contribution to climate change:
 - Despite the fact that the Project proposes doubling the occupancy of the Project site, the DEIR improperly concludes that the Project will result in energy *savings* at the Project site. The DEIR relies on unreliable data to reach this conclusion.
 - The use of improper baselines understates the Project’s true GHG emission impacts. The flaws in the traffic analysis carry over to the DEIR’s evaluation of GHG emissions from Project-related transportation.
 - The DEIR fails to explain the rationale behind its conclusion that the significance of the Project’s GHG emissions should be based on the Project’s “GHG efficiency” (emissions per employee) rather than the

Project's aggregate emissions of tens of thousands of tons of GHGs per year. This choice of a standard of significance downplays the real significance of the Project's climate impacts.

- ***Presentation of Analysis.*** The DEIR fails to adequately inform the reader about the analytical process used to reach its conclusions. Readers must piece together the DEIR's assumptions and reconstruct the analysis by sorting through a variety of technical memoranda in the documents appendices.

ANALYSIS

I. The DEIR Improperly Segments the Project.

A. The Tenant Improvements Are Part of a Single Development Project with the West Campus Construction and East Campus Entitlements.

The DEIR artificially narrows the definition of the Project, and in doing so, ignores a host of potential environmental impacts of the Project. This is a fundamental flaw in the DEIR and impairs its core function as a document to inform the public and decision makers about the true environmental consequences of the Project. *See* Cal. Code Regs. tit. 14, ("CEQA Guidelines") § 15003.

CEQA applies to projects proposed to be carried out or approved by a public agency. Pub. Res. Code § 21080. "CEQA's conception of a project is broad, and the term is broadly construed and applied in order to maximize protection of the environment." *Nelson v. County of Kern*, 190 Cal. App. 4th 252, 271 (2010) (citing *Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.*, 147 Cal. App. 4th 643, 653 (2007)). A "project" is "the whole of an action," which has a potential for resulting in either "a direct physical change" or "a reasonably foreseeable indirect change" in the environment. CEQA Guidelines § 15378(a); *see Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.*, 47 Cal. 3d 376, 395-98 (1988). The term "project" means "the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies." CEQA Guidelines § 15378(c). The term "does not mean each separate governmental approval." *Id.*

Because the statute requires evaluation of "the whole of an action," CEQA prohibits public agencies from "subdivid[ing] a single project into smaller individual subprojects in order to avoid the responsibility of considering the environmental impact of the project as a whole." *Orinda Ass'n v. Bd. of Supervisors*, 182 Cal. App. 3d 1145,

1171 (1986). CEQA “mandates ‘that environmental considerations do not become submerged by chopping a large project into many little ones’” which, individually, may have lesser environmental effects but which together may be “disastrous.” *City of Santee v. Cnty. of San Diego*, 214 Cal. App. 3d 1438, 1452 (1989) (citation omitted).

Here, the DEIR expressly excludes from its evaluation of environmental impacts the so-called “tenant improvements,” physical modifications to the existing buildings located on the East Campus that are necessary to serve the 6,600 employees who would work in those buildings. DEIR at 2-1. The DEIR concludes that, because no discretionary approvals would be required from Menlo Park to authorize those modifications in and of themselves, they need not be considered part of the “project” for CEQA purposes, and thus the DEIR need not evaluate the environmental impacts of those modifications. The DEIR also excludes from its review the impacts associated with some exterior additions to structures on the East Campus, which required discretionary approval and thus are subject to CEQA but which, the DEIR concludes, are categorically exempt from CEQA. *Id.* at 2-1 n.1. The tenant improvements and these allegedly categorically exempt additions are collectively referred to hereinafter as tenant improvements.

This violates CEQA. The “project” here for CEQA purposes is the “Menlo Park Facebook Campus Project.” DEIR at 2-1. The tenant improvements are plainly part of that project:

To accommodate the Project Sponsor’s rapid employment growth, the first phase of the Project includes occupying the East Campus’ nine existing buildings, which contain 1,035,840 square feet (sf). Tenant Improvements (TIs) are being undertaken to convert existing hardware-intensive laboratory spaces and individual hard-wall offices to a more open, shared workspace characteristic of the Facebook work environment

Id. The DEIR thus makes clear that the tenant improvements are an integral part of “moving [Facebook’s] operations from its existing facilities in the City of Palo Alto to the City of Menlo Park.” *Id.* They are therefore part of the project—“the whole of [the] action”—for CEQA purposes.

Assuming *arguendo* that the building permits necessary for the tenant improvements would, in isolation, be ministerial, and assuming *arguendo* that the additions would be categorically exempt if considered in isolation, it is irrelevant. A host of cases involving comparable circumstances show that the tenant improvements are part of the Project and must be evaluated as part of the whole Project. Accordingly, Menlo Park

should not have issued approvals for those portions of the Project without first conducting CEQA review of the entire Project.

In *Orinda Association v. Board of Supervisors*, the respondent had granted a demolition permit without performing CEQA review. Petitioners argued that this violated CEQA because the demolition was an integral part of a mixed-use development project slated for the property on which the demolition would occur. The First District agreed. After discussing the settled rules that CEQA applies to actions and not to approvals, and that projects may not be broken up into their component approvals to limit review, the court concluded that the demolition was merely one part of the broader development project. 182 Cal. App. 3d at 1171-72. The court went on to hold, “In view of this conclusion, we need not address the question of whether the issuance of the demolition permit by itself was actually a discretionary or mixed discretionary-ministerial act, subject as such to CEQA review separate and apart from the rest of the Project.” *Id.* at 1172.

In *Lincoln Place Tenants Ass’n v. City of Los Angeles*, 130 Cal. App. 4th 1491 (2005), the court concluded that demolition of existing structures was part of a development project on the property on which the demolition occurred. The court held, “CEQA’s requirements ‘cannot be avoided by chopping up proposed projects into bite-size pieces which, individually considered, might be found to have no significant effect on the environment *or to be only ministerial.*’” *Id.* at 1507 (emphasis added). The court thus concluded, implicitly echoing *Orinda Association*, “it cannot be argued CEQA does not apply to the Lake Street demolition on the ground demolition permits are ministerial acts. Therefore we need not decide whether as a general rule demolition permits issued by the City of Los Angeles are ministerial or discretionary.” *Id.* at 1507 n.22.

In *Nelson v. County of Kern*, the county had evaluated the impacts of a reclamation plan for a proposed mine, but failed to consider the impacts of the mining itself, on the theory that the mining would occur outside the agency’s jurisdiction (on federal land). The court rejected this artificial division, concluding, “both the mining operations and the reclamation plan . . . were integrally related and constituted the whole of the action or the entire activity for which approvals were being sought,” even though the county had no jurisdiction to approve or deny the mining activities themselves. 190 Cal. App. 4th at 272.

Finally, in *Association for a Cleaner Environment v. Yosemite Community College Dist.*, 116 Cal. App. 4th 629 (2004), the court concluded that the respondent district’s decision to close a shooting range, clean up contamination on the range, and trans-

fer courses using the range to other facilities constituted a single CEQA project. In doing so, the court expressly rejected arguments that portions of this single project were categorically exempt from review under CEQA. *Id.* at 640. The court held that the district was required to conduct environmental review of the entire project.

The DEIR here suffers from the same flaw of segmentation condemned in these cases. The tenant improvements are simply one aspect of the broader Facebook campus development project. It is irrelevant that they would require Menlo Park to approve only ministerial permits or would be categorically exempt if, hypothetically, they were undertaken in isolation without any of the other components of the campus project. *See McQueen v. Bd. of Directors*, 202 Cal. App. 3d 1136, 1146 (1988) (“CEQA requires consideration of the potential environmental effects of the project actually approved by the public agency, not some hypothetical project.”). The DEIR accordingly should have described the tenant improvements and their impacts on the environment and identified mitigation for any significant impacts. As it stands, the DEIR simply ignores these impacts, which, at a minimum, would include construction-related traffic, emissions, and waste generation impacts.

Moreover, this flaw in the DEIR is more serious than the run-of-the-mill example of segmentation in which a project’s significant impacts are minimized by dividing them across multiple approvals and multiple environmental analyses. Rather, by segmenting the Project here, the DEIR avoids *any* environmental analysis of the tenant improvements. This defect thus cuts to the heart of the purpose of CEQA to ensure that decision makers are fully informed about the environmental impacts of their projects. *See* CEQA Guidelines § 15003.

The DEIR’s definition of the Project makes clear that the CEQA “project” is not merely authorization of expanded use of existing facilities but rather a comprehensive development and redevelopment plan to create an integrated corporate campus for Facebook. That Project includes both the expanded use of the existing structures on the East Campus and the construction of new facilities on the West Campus. Menlo Park was correct to consider both the West Campus and East Campus as phases of a single project. In light of this comprehensive project definition, its decision to isolate the tenant improvements and excise them from the environmental analysis is perplexing.

Moreover, the impacts of at least some portion of the tenant improvements are indirect impacts of Menlo Park’s approving a substantial increase in the number of employees from 3,600 to 6,600. Although the improvements are not described in adequate detail in the DEIR based on Menlo Park’s erroneous conclusion that they are not

subject to review, those improvements are surely designed to accommodate 6,600 employees in structures previously limited to 3,600 employees. CEQA requires evaluation of both the direct and indirect impacts of a project. CEQA Guidelines § 15064(d).

B. The Fact that Construction Has Already Begun Does Not Excuse Failure to Evaluate the Impacts of That Construction.

We are informed that Menlo Park has already issued building permits for the tenant improvements, construction has already begun, and one or more of the East Campus buildings has already been occupied by Facebook. Because the ongoing construction is part of a single CEQA project that includes the rest of the Facebook campus improvements and entitlements, these prior approvals were issued in violation of CEQA, as the cases discussed above indicate. However, the fact that Menlo Park has allowed the tenant improvements to go forward without environmental review does not excuse the DEIR's failure to analyze the impacts of that construction as part of the DEIR for the larger Facebook Campus Project.

In *Arviv Enterprises v. South Valley Area Planning Commission*, 101 Cal. App. 4th 1333 (2002), a developer had sought separate building permits in a piecemeal fashion for portions of a 21-home development. Some of those homes had already been built when the City of Los Angeles learned that the homes in fact comprised a broader development project and accordingly required preparation of an EIR for that project. The developer challenged the EIR requirement, and the court upheld the city's decision. In doing so, the court also upheld the requirement that the EIR consider the impacts of the homes that had already been built. *Id.* at 1348-49.

Accordingly, the DEIR here should have evaluated the impacts of the *entire* project, including the construction work that has already commenced in violation of CEQA. Menlo Park may not compound that error by excluding from evaluation in the DEIR the full extent of the environmental impacts of the Project as a whole.

II. The DEIR Uses a Baseline that Artificially Understates the Project's Environmental Impacts.

An EIR's description of a project's environmental setting plays a critical role in all of the subsequent parts of the EIR because it provides "the baseline physical conditions by which a lead agency determines whether an impact is significant." CEQA Guidelines § 15125(a). Guidelines section 15126.2 describes the proper method for analyzing a project's impacts against this environmental baseline as follows:

In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced.

Longstanding case law upholds this fundamental principle by recognizing that “[a]n EIR must focus on impacts to the *existing environment*, not hypothetical situations.” *Cnty. of Amador v. El Dorado Cnty. Water Agency*, 76 Cal. App. 4th 931, 955 (1999) (emphasis added) (baseline for water diversion project was actually existing stream flows, not minimum stream flows set by federal license); *see also Env'tl. Planning Info. Council v. Cnty. of El Dorado*, 131 Cal. App. 3d 350, 354, 357-358 (1982) (effects of a proposed area plan for land development must be compared to the existing physical conditions in the area, rather than to development permitted under the county’s general plan); *City of Carmel-by-the-Sea v. Bd. of Supervisors*, 183 Cal. App. 3d 229, 246-247 (1986) (effects of rezoning must be compared to the existing physical environment, rather than to development allowed under a prior land use plan); *Save Our Peninsula Comm. v. Monterey Cnty. Bd. of Supervisors*, 87 Cal. App. 4th 99, 121 (2001) (water use baseline for analysis of proposed land development was actual use without the project, not what the applicant was entitled to use for irrigation); *San Joaquin Raptor Rescue Ctr. v. Cnty. of Merced*, 149 Cal. App. 4th 645, 658 (2007) (baseline for proposed expansion of a mining operation must be the “realized physical conditions on the ground, as opposed to merely hypothetical conditions allowable under existing plans”); *Woodward Park Homeowners Ass’n. v. City of Fresno*, 150 Cal. App. 4th 683, 693, 706-710 (2007) (effects of a large office and shopping center development must be compared to the current undeveloped condition of the property, rather than to an office park that could be developed under existing zoning).

The California Supreme Court recently addressed this very issue in *Communities for a Better Environment v. South Coast Air Quality Management Dist.*, 48 Cal. 4th 310 (2010) (“CBE”). In that case, the court concluded that the respondent district abused its discretion in evaluating the impacts of a petroleum refinery project by using as a baseline the maximum operating level *allowed* by existing permits. *Id.* at 316. The court held that the district had “erred in using the boilers’ maximum permitted operational levels as a baseline” because “operation of the boilers simultaneously at their collective maximum was not the norm.” *Id.* at 322. It went on to state, “By comparing the proposed project to what could happen, rather than to what was actually happening, the District set the baseline not according to ‘established levels of a particular use,’ but by ‘merely hypothetical conditions allowable’ under the permits.” *Id.* (citing *San Joaquin Raptor Rescue Ctr.*, 149

Cal. App. 4th at 658). The Supreme Court further explained, “An approach using hypothetical allowable conditions as the baseline results in ‘illusory’ comparisons that ‘can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts,’ a result at direct odds with CEQA’s intent.” *Id.*

The DEIR here ignores these fundamental principles. Although it recognizes the existing vacant condition of the West Campus site as the baseline for that portion of the Project, it uses a hypothetical condition as the baseline for the East Campus. Specifically, the DEIR uses a baseline condition of 3,600 employees for the East Campus, even though it admits that this was not the existing condition when environmental review began, nor has it been the actual condition for at least the past four years. DEIR at 3.1-4. The DEIR acknowledges that this “approach to the baseline . . . as it pertains to the East Campus is an exception to the general rule.” *Id.* Nevertheless, it attempts to justify this unusual baseline by stating that a “baseline of *permitted operations* is appropriate where the project is a modification of an existing permit,” and that an “agency has discretion not to use [the normal] environmental baseline . . . as long as its exercise of discretion is supported by substantial evidence.” DEIR at 3.1-3 to -4 (emphasis added). The DEIR is incorrect.

First, the few cases cited in the DEIR to support its baseline argument are not on point. Some contain language stating broadly that an agency retains some discretion to choose a baseline other than existing conditions, but these cases actually *rejected* agencies’ alternative baselines as contrary to CEQA. *See, e.g., Cnty. of Amador*, 76 Cal. App. 4th at 931 (agency may not just give a snapshot of past conditions, but must describe those conditions in some depth and justify them as the basis for a baseline); *Save Our Peninsula Comm.*, 87 Cal. App. 4th at 119-128 (rejecting agency’s baseline as not being supported by evidence of historical conditions).

Other cited cases dealt with different situations involving “merely a modification of a previously analyzed project and hence requiring only limited CEQA review under section 21166 and CEQA Guidelines section 15162 . . . , or as merely the continued operation of an existing facility without significant expansion of use and hence exempt from CEQA review under CEQA Guidelines section 15301.” *CBE*, 48 Cal. 4th at 326 & n.11 (citing, *inter alia*, *Benton v. Bd. of Supervisors*, 226 Cal. App. 3d 1467, 1477 (1991)). Here, the Project is not merely the continued operation of an existing facility or a minor modification to a previously analyzed project, nor does the DEIR contend that it is subject only to subsequent or supplemental review under the provisions cited in the *CBE* quotation above. Rather, as explained in the section of this letter regarding the Project’s project description, it is a massive new project that cannot “piggyback” off of previously

approved permits and cannot ignore impacts from portions of the Project that, by themselves, would not have required discretionary approvals.

More fundamentally, just as in *CBE*, the DEIR fails to show that the maximum *permitted* capacity is “a realistic description of the existing conditions without the [] Project.” 48 Cal. 4th at 322. The DEIR offers no substantial evidence that the maximum permitted capacity of 3,600 employees is the “norm” at this point in time, and therefore that it can serve as the appropriate point of comparison with Project conditions. The DEIR notes that Menlo Park issued a permit in 1991 which allowed up to 3,600 employees to occupy the site. DEIR at 3.1-4. It states that the “permit was exercised” and that Sun Microsystems occupied the site with 3,600 employees “for over two decades,” ending in 2008. At that point, Oracle acquired Sun, and the site was then occupied with approximately 2,000 employees. At some point prior to the beginning of environmental review, Oracle vacated the site, although the DEIR does not reveal that information.

As an initial matter, the DEIR’s analysis is flawed because it offers no evidence, substantial or otherwise, to support its assertion that the site was occupied by 3,600 employees constantly between 1991 and 2008. On the contrary, it is not plausible that the facility operated at precisely 3,600 employees for almost 20 years. In fact, a 2006 news article notes the fluctuating size of the Sun workforce, including “at least 13,000 job cuts between 2001 and 2005.” Stephen Shankland, *Sun Layoffs Hit High-end Server Group*, CNET News.com (April 7, 2006), available at <http://web.archive.org/web/20070210194319/http://news.zdnet.com/2100-1009_22-6058894.html>. The lack of any evidence of the working population of the site prior to 2008 makes clear that the DEIR’s East Campus baseline is in fact nothing more than the maximum occupancy *permitted*, in direct contravention of the Supreme Court’s holding in *CBE*.

Moreover, the alleged history of past occupancy fails to demonstrate that full occupancy has been the norm in recent years or that it would be the norm if the Project were not approved. For example, the DEIR does not explain how long Oracle occupied the site, whether there have been other businesses that sought to use the full space since Sun Microsystems left, or if there are other reasons why the site has not been fully occupied for the past four years. Likewise, the DEIR contains no evidence that some other company was poised to immediately fully occupy the site if Facebook had not done so. Indeed, given that Facebook had to make major “tenant improvements” before moving in to convert the space to suit its needs, it appears that the entire site may not have been suitable for full occupancy by any company in its existing condition. Likewise, there is no evidence that Facebook would fully occupy the existing buildings on the site if it was not

also allowed to greatly expand the number of employees at the site or to expand to a West Campus.

In short, the DEIR uses a hypothetical situation—full permitted utilization of the site—that has not been the norm for at least four years and measures the Project’s impacts against this baseline. Even for the period when Sun Microsystems allegedly fully occupied the site before Oracle acquired it, the DEIR contains nothing more than unsupported statements regarding the occupancy of the site. Such unsupported statements do not constitute substantial evidence. CEQA Guidelines § 15384 (“substantial evidence” does not include “unsubstantiated . . . narrative”). In any event, CEQA forbids use of such hypothetical baselines. Although agencies maintain some narrow discretion to deviate from using a baseline of conditions existing at the time of the notice of preparation (“NOP”), the DEIR has not justified that deviation by providing substantial evidence that occupancy by 3,600 employees has been the recent norm for this site. There is no evidence to support the idea that the recent, four-year period of low occupancy is a “temporary lull . . . in operations” that the DEIR can ignore when calculating the baseline. *CBE*, 48 Cal. 4th at 328.

The Supreme Court in *CBE* rejected the same argument that the DEIR makes here: that the maximum permitted level of operation is the baseline because this level “could [] occur even if the proposed project did not commence.” 48 Cal. 4th at 322. It is the agency’s burden to “conduct the investigation and obtain documentation to support a determination of preexisting conditions.” *Save Our Peninsula Comm.*, 87 Cal. App. 4th at 122. Here, the DEIR has not met its burden to support its determination of existing conditions. As a result, the DEIR’s entire analysis of the Project’s impacts is skewed because it compares the Project’s impacts against what conditions might have been instead of against what conditions actually are.

III. The DEIR Fails to Adequately Analyze and Propose Mitigation for the Project’s Environmental Impacts.

A. The DEIR Fails to Adequately Describe and Analyze the Project’s Transportation Impacts.

The Project’s transportation impacts are especially important because of the large number of employees being brought to the Project site and its remote location at the eastern fringe of Menlo Park. East Palo Alto will experience a significant share of these impacts given its proximity to the Project site and its location between that site and Highway 101. Moreover, the transportation analysis forms the basis of the analysis of

other impacts in the DEIR, such as air quality and climate change. Unfortunately, the transportation impact analysis suffers from a variety of substantial defects.

1. The DEIR Uses an Improper Baseline for Traffic Impacts.

As just noted, the DEIR fails to support its choice of a baseline other than the existing conditions as of the date of the NOP. *See supra* Section II. Even if the DEIR were correct to use operational conditions under a prior occupant of the property (and not the most recent occupant), the traffic analysis uses a purely hypothetical baseline that does not reflect actual traffic conditions existing when Sun Microsystems occupied the property. This approach substantially reduces the apparent impacts of the Project. It renders the entire traffic analysis fatally flawed and has spillover effects for other impact analyses.

The DEIR identifies several traffic scenarios: existing conditions (with the Project site largely vacant); near term 2015 and 2018 and cumulative 2025; east campus only 2015 and 2025; and east and west campus 2018 and 2025 (i.e., full buildout). DEIR at 3.5-33. In evaluating the impacts of the project scenarios (east campus only and east and west campus together), however, the DEIR compares the project traffic to the traffic generated by the use of the East Campus that would be *allowed* under the existing conditional development permit (“CDP”), not to any previously existing condition. This violates CEQA.

Rather than relying on data of actual vehicle trips to and from the Project site, the DEIR estimates the trips that could have been generated under the existing CDP’s 3,600-employee limit and 25-percent trip reduction requirement applicable to the original development of the property. DEIR at 3.5-33 to -34. As noted previously, the DEIR provides no substantial evidence to support the claim that 3,600 employees were ever present on the property or when exactly they were present. *See supra* Section II. It also offers no data to show how many vehicle trips were actually generated by the alleged prior use of the property. Rather, it uses the generic ITE Trip Generation Manual to estimate how many trips a generic office project would generate given a hypothetical population of 3,600 employees and then deducts the 25 percent reduction required by the CDP. It provides no basis for concluding that this reduction actually occurred—the only basis for the assumed reduction is that it was legally mandated.

The DEIR then compares the project (both for the East Campus only and for full buildout) to the number of trips estimated for this hypothetical scenario. For example, Table 3.5-11 sets out an “East Campus Only Condition Increment” of trips as compared to the trips estimated for the hypothetical 3,600-employee scenario. DEIR at

3.5-44. Impact TR-1 then uses that artificial traffic “increment,” or “net–new Project traffic,” to evaluate the impact of the East Campus Only scenario. *Id.* Likewise, in Table 3.5-12, the DEIR compares levels of service (“LOS”) for the “Near Term 2015” scenario—the hypothetical baseline plus hypothetical one percent annual growth—with the “Near Term 2015 East Campus Only” scenario. *Id.* at 3.5-51.

CEQA demands that project impacts be evaluated against a backdrop of *actual* environmental conditions, not hypothetical conditions. Even if the DEIR were correct to use a baseline other than the conditions existing at the time of the NOP, *but see supra* Section II, the baseline must still reflect *actual existing conditions* at that alternate time. *See City of Carmel-by-the Sea*, 183 Cal. App. 3d at 246 (EIR must assess project impacts against “real conditions on the ground”); *Env'tl. Planning Info. Council*, 131 Cal. App. 3d at 354 (baseline must reflect “existing physical conditions in the affected area”).

Indeed, in the *CBE* case, discussed *supra*, the California Supreme Court rejected the DEIR’s approach of using as a baseline a prior operational maximum set forth in a permit. There, in considering an application for a refinery air pollution permit modification, the respondent had concluded that an increase in pollutant emissions was not significant because it was within the level *allowed* by the existing permit. 48 Cal. 4th at 318. In rejecting this approach, the Court concluded that the baseline must reflect “the existing environment, not hypothetical situations.” *Id.* at 322 (quoting *Cnty. of Amador*, 76 Cal. App. 4th at 955).

The DEIR’s traffic baseline is similar to the permit-maximum baseline condemned by the Supreme Court. The baseline was not based on actual trips generated from the property prior to the Project. Rather, the trips were based entirely on (1) the 3,600-employee limit set in the existing permit (the CDP), and (2) the 25 percent trip reduction required by that permit.

In fact, had the DEIR used as the baseline the scenario that the traffic analysis referred to straightforwardly as “existing conditions,” DEIR at 3.5-32, it would not have had to generate a hypothetical baseline based on the maximum trips allowable under the CDA. The traffic analysis reports that Menlo Park performed traffic counts at the Property in November 2010, only five months before the NOP was released. DEIR at 3.5-31.

It is worth noting that this is not a situation in which the DEIR bypassed the standard baseline used in the vast majority of cases because the ordinary baseline would understate the Project’s impacts and thus subvert the purpose of CEQA to fully disclose project impacts. On the contrary, the DEIR’s traffic baseline causes the Project’s traffic

impacts to appear artificially less significant than they are: the DEIR's hypothetical baseline subtracted 5,394 trips per day from the Project's impact. DEIR at 3.5-34. The Supreme Court's warning in *CBE* is apt here: "An approach using hypothetical allowable conditions as the baseline results in 'illusory' comparisons that 'can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts,' a result at direct odds with CEQA's intent." 48 Cal. 4th at 322 (quoting *Envtl. Planning Info. Council*, 131 Cal. App. 3d at 358).

2. The Traffic Analysis Fails to Account for the Impact of Facebook Shuttles and Vanpools.

The Project's transportation demand management ("TDM") program emphasizes Facebook's use of shuttles and vanpools to transport employees to and from their homes at locations around the Bay Area and to and from local mass transit stops. DEIR App. 3.5E at 2-3; DEIR App. 3.5G. The trip cap monitoring and enforcement policy includes shuttles and vans in its definition of a "trip." DEIR App. 3.5F at 1. However, in generating the total "trips" for the Project, the "transportation assumptions" memorandum in Appendix 3.5E fails to include shuttle and vanpool trips. It states that, based on the transportation mode share surveys, "the vehicle trip generation rates were calculated to be 65 percent of the person trip generation rate. This was derived from 59 percent (drive alone) plus 12 percent carpooling at average vehicle occupancy of 2.1 persons per car." DEIR App. 3.5E at 3. The memo identifies shuttle trips as an additional 21 percent of trips. *Id.*, fig. 2; *see also id.* at 4 (apparently including shuttle trips in the "35 percent [of] travel via alternative transportation modes").

Nowhere does the DEIR include the shuttle and vanpool trips in its estimate of Project trips.¹ The memorandum describing the TDM program suggests that the Project will involve 80 shuttle roundtrips per day, with an average length of 17.3 miles, and 40 vanpool roundtrips with an average length of 16.4 miles.² DEIR App. 3.5G. However,

¹ We performed a keyword search on both the transportation section of the DEIR and the transportation appendix for the keywords "shuttle" and "van" and found no indication that shuttle or vanpool trips were incorporated into the DEIR's trip analysis.

² Because these are roundtrips, they would presumably constitute 160 shuttle trips per day and 80 vanpool trips per day. However, it appears that these estimates are for the full buildout of the East and West Campuses. It is thus impossible to determine what portion of the East Campus trip cap would be accounted for by shuttles and vanpools.

it appears that those shuttle trips were not included in the vehicle trips modeled in the traffic analysis or in the other impact analyses based on the traffic analysis.

We can imagine no basis for excluding these trips from the traffic analysis and assume their exclusion was an oversight. However, it is a substantial one. Shuttle and vanpool trips are commuting trips, and thus are likely to occur at the peak hours, rather than at mid-day when employees run errands or attend off-site meetings. Because they are less fuel efficient than ordinary passenger cars and emit greater pollutants, on a per-vehicle basis, they will have greater air and GHG impacts than the passenger vehicles that make up the rest of Project automotive trips.³

Moreover, the fact that shuttle and van trips are included in the definition of “trip” for purposes of the trip cap, but were not included when Facebook’s consultants generated the trip cap, suggests that Facebook is likely to exceed the trip cap unless it takes further steps to reduce individual employee vehicle trips. Such steps, such as imposing a parking charge for employees, are suggested elsewhere in this letter. *See infra* Section III.A.5.

3. The DEIR Does Not Demonstrate that the Mode Choice Survey Conducted at the Existing Facebook Campuses Is a Valid Basis for Projecting the Transportation Decisions of Employees at a Different Location.

The DEIR’s projection of vehicle trips (and the proposed vehicle trip cap for the East Campus) is based on transportation mode surveys conducted at Facebook’s existing campuses on Page Mill Road in Palo Alto. DEIR at 3.5-43; DEIR App. 3.5E. Facebook’s consultants generated estimates of the number of daily and peak hour trips per employee based on the single-occupant vehicle and carpool use revealed by the surveys. DEIR App. 3.5E.

However, the DEIR does not explain why this survey data will reliably predict the distribution of transportation modes at a site approximately seven miles away in a different environment. The existing campuses are both located on Page Mill Road, in the

³ Of course shuttles and vans are high-occupancy vehicles, and thus their use will reduce traffic and emissions relative to a condition in which employees commute in single-occupancy or low-occupancy vehicles. Nevertheless, the impact of shuttles and vans must be accounted for.

heart of Palo Alto, while the Project site is located on the outskirts of Menlo Park and East Palo Alto, bounded on both the east and north by San Francisco Bay. Unsurprisingly, with the campuses in their current locations in Palo Alto, a large portion of Facebook employees—20.4 percent—live in Palo Alto. DEIR App. 3.7C. By contrast, only 3.7 percent live in the three communities adjacent to the Project site: Menlo Park, East Palo Alto, and Atherton. *Id.*

The DEIR does not explain why employees can be expected to reach the new campus in the same way they reached the former campuses notwithstanding their different locations. On the contrary, the only data provided in the DEIR (the residential distribution of existing employees) suggests that commute patterns will need to change significantly for many employees. Moreover, given that the Project site is more remote from the residences of many Facebook employees, any change in transportation modes is likely to expand, rather than reduce, reliance on vehicles for trips to and from the Project site, which will expand the Project's impacts on East Palo Alto.

4. The 2018 East and West Campus Scenario Understates Project Traffic.

For the 2018 scenario with East and West Campus buildout, the DEIR, without explanation, focuses solely on the traffic contribution of the West Campus. For example, Impact TR-7 states, "The Project would generate approximately 6,350 net daily trips during a typical weekday." DEIR at 3.5-86. Even putting aside the DEIR's erroneous use of a hypothetical baseline condition, this statement ignores the "net" contribution of East Campus traffic, which will be present in 2018. The DEIR does not explain its decision to derive "net" 2018 Project traffic by subtracting 2015 Project traffic. 2018 Project traffic "net" of 2015 Project traffic has no CEQA significance. This approach risks confusing the reader and decision maker and masking the true severity of the Project's impact.

Moreover, neither the DEIR nor the appendices explain how the 6,350 trips for the West Campus were generated. We found no reference to that number in the appendices or any other indication of how West Campus trips were calculated. The DEIR text refers only to "the traffic levels anticipated to be generated by the West Campus based on data collected by the Project Sponsor (6,350 daily trips)" but fails to provide an explanation or even a citation for that figure. DEIR at 3.5-72.

5. The DEIR Fails to Consider Feasible Mitigation Measures for the Project's Significant Traffic Impacts.

The traffic analysis identifies several impacts that it concludes are significant and unavoidable, including road segments and intersections in East Palo Alto. *E.g.*, DEIR at 3.5-82 to -85, 86, -90. The document proposes mitigation for these impacts, but that mitigation is, with one minor exception, exclusively limited to physical modifications to roadways and intersections, and the document concludes (summarily) that much of it would be infeasible. *E.g.*, *id.* at 3.5-128 to -129 (summary tables).

The DEIR violates CEQA by failing to consider potentially feasible mitigation measures to respond to the numerous allegedly significant and unavoidable impacts identified. "An EIR shall describe feasible measures which could minimize significant adverse impacts . . ." CEQA Guidelines § 15126.4. Under CEQA, "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. . . ." Pub. Res. Code § 21002. California courts have made clear that an EIR is inadequate if it fails to suggest feasible mitigation measures, or if its suggested mitigation measures are so undefined that it is impossible to evaluate their effectiveness. *San Franciscans for Reasonable Growth v. City & Cnty. of San Francisco*, 151 Cal. App. 3d 61, 79 (1984).

The DEIR overlooks potential mitigation measures that would reduce Project-generated trips rather than attempting to expand the physical infrastructure available to accommodate those trips, which the DEIR concludes is largely infeasible.⁴ The DEIR emphasizes Facebook's TDM, which includes a variety of measures designed to reduce vehicle trips to and from the Project. But the DEIR does not explain why it would be infeasible to expand or intensify the TDM program.

⁴ Moreover, roadway expansion is, at best, a short-term response to traffic congestion, as over time traffic expands to fill the newly available capacity. *See* Victoria Transport Policy Institute, T. Litman, *Smart Congestion Reductions: Reevaluating the Role of Highway Expansion for Improving Urban Transportation* (Feb. 2, 2010) at 8, available at <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0CDUQFjAC&url=http%3A%2F%2Fciteseerx.ist.psu.edu%2Fviewdoc%2Fdownload%3Fdoi%3D10.1.1.192.1884%26rep%3Drep1%26type%3Dpdf&ei=mAAnT5C9Iu_MiQKS1NSvBg&usg=AFQjCNEv_761q8xopFqph-RUrVbBY6aGqg>.

On the contrary, many of the TDM program components are readily scalable to further reduce single-occupant and low-occupant vehicle trips. Examples include expanded shuttle and vanpool programs and increased subsidies for users of such alternative modes of transportation. Additional measures could be added to the program, such as charging employees a fee for parking. Indeed, a parking charge could be varied to reflect trip count. Because Facebook will have real-time access to trip volume data, *see* DEIR App. 3.5F at 4 (trip cap enforcement policy), the parking charge could similarly fluctuate in real time: charges could increase on days and at times when trip volume is high and decrease when volume is low. San Francisco's SF Park program represents a basic form of such congestion pricing for parking. *See* SF Park, *Pricing*, <<http://sfpark.org/how-it-works/pricing/>>. If the parking fees received from drivers were paid out as incentives to employees using alternative transportation modes, the program would provide a strong incentive for employees to abandon their cars for other modes.

The TDM program could also be expanded in ways that respond specifically to the significant and unavoidable impacts identified in the DEIR, targeting the road segments and intersections that are expected to experience significant traffic impacts. For example, the TDM program might provide additional incentives (monetary or otherwise) to encourage commuters using high-impact routes to use alternative means of transportation, establish staggered schedules, or simply use alternate routes. Given the widespread availability of GPS technology in mobile devices, and Facebook's sophistication in making use of that technology, tracking employee commute routes should not be difficult. *See* Facebook, *About Location Services*, <<http://www.facebook.com/help/location/about>>.

However, such measures might not need to be specified if the trip cap were appropriately reduced to mitigate currently unmitigated significant impacts. It appears from the DEIR and appendices that Facebook has unilaterally established the trip cap. *See* DEIR App. 3.5E. It is entirely proper for Menlo Park to set a lower trip cap to mitigate the Project's significant impacts on its community and surrounding communities. The alternatives analysis considers a lower baseline, but it ignores the possibility that trips may be further reduced with a more aggressive TDM program, and instead assumes that it could be complied with only by reducing employee headcount. That assumption is unsupported.

It is not sufficient for the DEIR to evaluate only infrastructure solutions to respond to impacts that it concludes are significant and unavoidable when other mitigation is available. Moreover, as noted below, the DEIR may not refuse to recommend mitigation merely because it would not entirely eliminate the impact. *See infra* Section IV.

B. The DEIR's Analysis of Impacts Related to Housing and Population Is Inadequate and Its Conclusions Are Not Based on Substantial Evidence.

The Project would bring thousands of new employees to an area of Menlo Park that borders East Palo Alto. As the DEIR admits, this will induce growth in the area and will create the need for approximately 3,257 housing units.⁵ DEIR at 3.14-14. Although job growth in and of itself is not an environmental impact, both the DEIR and CEQA recognize that if a project will create jobs that in turn will require housing to be built, the impacts of the need for construction of housing and associated infrastructure is a cognizable environmental impact. *Id.* at 3.14-7 (acknowledging that “[t]he Project would result in a significant impact if it would . . . [d]isplace substantial numbers of people, necessitating the construction of replacement housing.”); CEQA Guidelines §§ 15126(d) (EIR must analyze growth-inducing impacts), 15126.2(d) (EIR must “Discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly”).

Here, the DEIR conducts some analysis of indirect housing demand caused by the Project and concludes that the Project will have a less than significant impact on regional housing. However, it does not support that conclusion with substantial evidence. Rather, the DEIR's housing assessment and the Housing Needs Assessment in Appendix 3.14 contain a variety of errors and unsupported assertions.

1. The DEIR Uses Generic Regional Data, Instead of Data Tailored to the Actual Project, in Assessing Impacts on Housing.

In various instances, the DEIR does not use Project-specific data when calculating the Project's impacts on housing. For example, the Population and Housing section of the DEIR analyzes regional housing needs assuming that only 8.8 percent of Project employees will live in San Francisco. DEIR at 3.14-14. This assumption is based on generic information about “the existing commute patterns for employees who work in the City [of Menlo Park].” *Id.* at 3.14-12. However, it is contradicted by the far more specific evidence in the DEIR indicating that approximately 26 percent of Facebook employees currently live in San Francisco and that this number will likely remain the same given their workforce characteristics. DEIR App. 3.14 at 23. Likewise, the DEIR uses generic data to calculate that only 3.3 percent of employees will live in East Palo Alto. *Id.* at 27. This

⁵ As explained below, this number is likely too low.

assumption does not account for the Project's location immediately adjacent to East Palo Alto and the TDM's goal of promoting bicycle and pedestrian commuting, which will encourage employees to live close to the Project site. *See id.* (data is based on existing commute patterns for all Menlo Park workers); DEIR App. 3.5G at 3 (Facebook intends to meet a goal of having 50 percent of employees commute by walking, biking, or other non-single-occupant-vehicle modes).

The DEIR does not explicitly address the discrepancies caused by using generic, rather than Project-specific data. However, it states that the DEIR's housing analysis "us[es] County averages in many places rather than seeking to model the unique characteristics of Facebook and its workforce in all respects." DEIR App. 3.14 at 6. The DEIR's justification for this is that, although "Facebook is expected to be the primary occupant of the Project for the foreseeable future, entitlements would be transferable to any other future occupants of the property" *Id.* In other words, the Housing Needs Assessment does not analyze the impacts of *this* Project, which proposes to build a headquarters campus for Facebook. Rather, it analyzes the impacts of a hypothetical project involving construction of a generic office complex with 6,600 new (and 9,400 total) employees. Such an analysis is faulty, and the DEIR's housing analysis is skewed as a result.

CEQA requires an agency to provide "detailed information about the effect which a proposed project is likely to have on the environment." Pub. Res. Code § 21001. Here, the DEIR defines the Project not as construction of generic office buildings, but as the "Menlo Park Facebook Campus Project." DEIR at 2-1. Notably, the DEIR states that the Project's foremost purpose is to "Establish *Facebook's permanent headquarters* in the City," and the second purpose is to "[d]evelop an integrated, multi-phased campus that is *sized to accommodate Facebook's long term growth potential.*" DEIR at 2-5 (emphases added). As such, the DEIR must analyze this Project and its expected impacts, not the impacts that might be expected if a different tenant later takes over the lease. This is particularly important given that—as explained below—the Facebook Project has particular characteristics and includes specific measures that are different from a run-of-the-mill office construction project.

The DEIR—including the Housing Needs Assessment—analyzes some Project impacts based on Facebook's specific occupancy of the Project site, rather than assuming that another company will someday take over the lease. For example, it bases its estimate of how many low-income food workers will work at the site on the fact that "Facebook's staffing needs are less than typical for food service because most meal service is accommodated within a single work shift, is not generally provided on weekends, employees bus their own tables, and the need for cashiers is eliminated since food service is provid-

ed free of charge.” DEIR App. 3.14 at 10. Likewise, the DEIR’s analysis of traffic, vehicle miles traveled, mode of commute, and resultant pollution is based on Facebook employees’ current commute patterns and Facebook’s commitment to implement a TDM program to reduce single-vehicle commutes. DEIR App. 3.5E at 1 (“vehicular trip generation estimates were developed based on travel demand surveys conducted at Facebook’s Palo Alto campus”), *id.* at 4 (“Facebook’s trip generation rate is 27 percent lower than traditional office developments, since many of Facebook’s employees travel outside of the traditional commute peak hours and 35 percent travel via alternative transportation modes.”), *id.* at 5 (calculating the 15,000/day trip cap that is used in the DEIR for traffic analysis (*see* DEIR at 3.5-43) “based on *Facebook specific* trip rates per employee.”) (emphasis added)).

The DEIR’s selective use of factors specific to Facebook in some instances, but not others, distorts the analysis of the Project’s impacts. Indeed, it appears the DEIR selectively used Facebook-specific factors when doing so would reduce the appearance of Project impacts (e.g., for traffic). However, in its analysis of housing impacts, it used generic data that make impacts appear to be less significant than if the DEIR had used Facebook-specific data.

The Project, due to its specific characteristics, is likely to have greater impacts on local housing in East Palo Alto than admitted in the DEIR. For example, the DEIR estimates that the Project will create the need for 917 housing units that are affordable for very-low-income or low-income families. DEIR App. 3.14 at 2. This represents 28 percent of the new housing need created by the Project. *Id.* As the DEIR admits, housing in Menlo Park and other surrounding jurisdictions is very expensive. *Id.* at 3, 6-7, 22. As such, most housing in these jurisdictions will not be affordable for the 28 percent of new Facebook employee households earning low or very low incomes. According to East Palo Alto planning staff, the city is one of the few jurisdictions on the mid-Peninsula that has relatively affordable housing and particularly rental housing with robust rent control. And Keyser Marston, Menlo Park’s consulting firm for housing impacts, admits as much in a study it drafted for Menlo Park dated December 21, 2011.⁶ Keyser Marston Associates, , (Dec. 21, 2011). As such, it is an obvious location for the 917 lower income Facebook employees to look for housing. This sudden demand is likely to create the need for new

⁶ The Keyser Martson study was released after the DEIR was made available for public review and comment and was not attached to or incorporated in that document. Accordingly, Menlo Park cannot rely on that study to rectify any shortcomings in the DEIR itself.

housing for these workers, or to displace current East Palo Alto residents, thereby creating new housing demand indirectly.

Likewise, East Palo Alto and its rent controlled units are also a prime target for gentrification in response to Facebook's new headquarters and other regional factors. This is particularly likely given that a large new landlord, Equity Residential, recently purchased more than half of the rent-controlled units in East Palo Alto. Valerie Schmalz, Catholic San Francisco, Online Edition, *East Palo Alto mayor, pastor oppose sale of low-income housing* (Oct. 12, 2011), available at <http://www.catholic-sf.org/news_select.php?newsid=22&id=59056>. These units represent approximately fifteen percent of all affordable units in the County of San Mateo. *Id.* The company's owner has been a strong opponent of rent control, and the company has expressed its intention to gentrify the area in the near future. *Id.* Gentrification will displace current low-income residents, leading to the need for more affordable housing to be built in the area.

The DEIR summarily dismisses the notion that the Project's likely displacement of low-income residents of East Palo Alto could cause environmental impacts. DEIR at 3.14-1 ("The City of East Palo Alto also raised an issue relating to the potential displacement of East Palo Alto residents. For reasons discussed below, this issue is not evaluated further in the Draft EIR because possible displacement of residents would not result in a significant physical impact on the environment."). If the Project causes displacement of such residents, then logically those ex-residents will have to find new housing elsewhere. And given that affordable housing is scarce in the region, new affordable housing will need to be constructed to house the displaced residents. Such impacts have long been recognized as cognizable CEQA impacts. CEQA Guidelines § 15064(e) ("Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect"); CEQA Guidelines § 15131(a); *El Dorado Union High Sch. Dist. v. City of Placerville*, 144 Cal. App. 3d 123 (1983) (effects of overcrowding are relevant when they lead to construction of new facilities).

Because the DEIR fails to account for many factors showing that there will likely be a spike in housing demand in East Palo Alto, it fails to adequately analyze the Project's true impacts. For example, in estimating the Project's housing impacts on East Palo Alto, the DEIR ignores that 1) the Project will be located adjacent to East Palo Alto, 2) Facebook has committed to numerous measures to encourage employees to walk, bike, or take transit to work (thereby encouraging employees to live close to the Project site), 3) lower-income earners are more likely to live close to their jobs and to take transit to work, 4) few nearby jurisdictions have available housing for lower income households, and 5) a new owner of more than half of East Palo Alto's affordable units recently ex-

pressed an intention to gentrify the area, likely at least in part in response to Facebook moving its world headquarters nearby.⁷ Displacing this much affordable housing will cause the need for construction of more affordable housing elsewhere, which is a cognizable environmental impact under CEQA.

In sum, the DEIR unjustifiably uses generic data to summarily conclude that only 3.3 percent of future employees will live in East Palo Alto. Its decision to ignore a multitude of relevant factors showing that this percentage will likely be much higher is an abuse of discretion. *See Berkeley Keep Jets Over the Bay Comm. v. Bd. of Port Comm'rs*, 91 Cal. App. 4th 1344 (2001) (agency's use of incomplete data to measure noise impacts renders its analysis invalid).

2. The DEIR's Use of An Erroneous Baseline and Its Segmentation of Portions of the Project Causes It to Underestimate the Project's Actual Impact on Housing Demand and Displacement.

As described previously, the DEIR uses an improper baseline that assumes the site already has 3,600 employees. *See supra* Section II. If the DEIR used a proper baseline that measured the Project's full job growth and housing impacts against actually existing conditions, or even against more recent conditions in which 2,000 employees occupied the site, the Project's impacts on housing would be shown to be much more severe.

The DEIR also appears to substantially underestimate the job growth, and thus housing needs, associated with the Project in another way. The DEIR states that "employment associated with construction of tenant improvements on the East Campus and development of the West Campus is not included in this [housing needs] analysis." DEIR

⁷ The Keyser Marston study of December 21, 2011 also ignores almost all of these factors in concluding that the Facebook Project will not displace low-income residents of East Palo Alto. Additionally, it relies on unrealistically high recent vacancy and turnover rates in East Palo Alto to conclude that there will be plenty of available housing. In reality, Page Mill Properties—the landlord who until recently controlled over half of East Palo Alto's affordable, rent-controlled units—evicted hundreds of tenants and brought numerous suits against the City and its rent control ordinance, all of which led to an unusually high turnover rate for the past few years. *See Schmalz, supra*, <http://www.catholic-sf.org/news_select.php?newsid=22&id=59056>; Gennady Shayner, *Eshoo 'very concerned' about Wells Fargo's apartment sale*, Palo Alto Online News (Sept. 30, 2011), <http://www.paloaltoonline.com/news/show_story.php?id=22702>.

App. 3.14at 30. Neither the DEIR or the Housing Needs appendix provides a rationale for ignoring the jobs, and resulting need for housing, associated with renovations on the East Campus or construction of the West Campus. Given the large scope of this Project, and its multi-year timeframe for buildout (*see* DEIR at 2-29 (proposed three-year build-out)), some workers may relocate to the area either temporarily or permanently to work on these construction projects. The DEIR should have either analyzed the housing needs and other impacts of workers related to construction on the Project, or else provided evidence of why these impacts need not be analyzed. *See City of Santee v. Cnty. of San Diego*, 214 Cal. App. 3d 1438, 1452 (1989) (EIR must describe the *whole* of a project and *all* of its impacts).

3. The Threshold of Significance for Housing Impacts Is Faulty, Causing the DEIR to Significantly Underestimate Actual Impacts.

The DEIR states that 6,600 workers will be employed at the Project site by 2015 at the latest (DEIR at 2-13), and an additional 2,800 workers will be on site by 2016. *Id.* at 2-29. Thus, the Project's full impacts on local housing needs will be felt by 2015 or 2016. However, the DEIR uses a different timeframe for measuring the Project's impacts on regional job growth and housing. In measuring the Project's job growth vis-à-vis Menlo Park's expected job growth, the DEIR states that "[t]he net increase of approximately 3,000 employees [for the East Campus] would account for approximately 74 percent of the City's employment growth of 4,050 jobs between 2010 and 2025." DEIR at 3.14-9 (emphasis added). Likewise, employment at the West Campus "would account for approximately 69 percent of the City's employment growth of 4,050 jobs between 2010 and 2025." *Id.* Thus, according to the DEIR, "[t]he total net increase in employment would represent 143 percent of the total ABAG projected employment of 4,050 jobs" by 2025. DEIR at 3.14-5.

Similarly, the DEIR states that this job growth will result in a need for 3,257 housing units. DEIR at 3.14-11. The DEIR assumes that "approximately 7.8 percent, or 254 units, of the housing demand generated by the Project [] would be for housing within the City." *Id.* It then compares this number with projected housing growth for the City in 2025, which is 1,630 units. *Id.* Using these numbers, the DEIR then states that the "housing demand generated by the Project would be 254 households, approximately 15.6 percent of projected housing growth in the City from 2010 to 2025." *Id.* Based on this analysis, the DEIR concludes that, because the Project will account for a mere 15.6 percent of the City's housing growth, "the demand for housing as a result of the Project would be *less than significant*." *Id.* (emphasis in original).

By using this 2025 growth projections as a threshold, the DEIR understates the true impacts of the massive and rapid job growth, and resulting housing demand, caused by this Project. In effect, it dilutes the Project's impacts by spreading them out over fifteen years instead of recognizing that they will actually be felt within four years. The DEIR does not explain why it uses 2025 growth projections, given that it also includes job and housing projections for 2015. Given that 2015 is the date by which the Project is actually expected to be complete, with most employees on site, this date, and not 2025, must be used to measure the Project's impacts. *See Protect the Historic Amador Waterways v. Amador Water Agency*, 116 Cal. App. 4th 1099, 1111 (2004) (criticizing agency for failing to use a threshold that accurately measures all of the project's impacts).

Using 2015 figures for job growth and housing reveals a different picture of the Project's impacts. These figures show that, absent the Project, Menlo Park is expected to gain only 450 jobs between the years 2010 and 2015. DEIR at 3.14-5. Likewise, only 530 new housing units are projected in Menlo Park by the year 2015 without the Project. DEIR at 3.14-6. Thus, the Project's 6,600 jobs are 1,466 percent, or *more than 14 times*, the City's expected job growth in this time period. And the Project's demand for 254 housing units in the City accounts for 48 percent, or nearly half, of the City's expected housing growth for 2015.

Even these numbers likely underestimate the Project's actual impacts. First, if the DEIR used the proper baseline of *existing* conditions (i.e., zero employees), then the Project and its 9,400 employees would represent 2,089 percent of Menlo Park's expected job growth by 2015. Likewise, if the DEIR used its calculation of 1.78 workers per household with the full 9,400 employees, it would result in a housing demand of 5,281 housing units for the Project, as opposed to 3,257. And 7.8 percent of 5,281 (i.e., the percentage of employees expected to live in Menlo Park) represents 412 housing units needed in Menlo Park. Using these figures, housing demand due to this Project alone would represent 92 percent of the projected housing growth in Menlo Park by 2015. This is significant under any meaning of the term.

Second, the DEIR underestimates the true demand for housing units that the Project will cause. The DEIR takes its figure of 5,800 "net" additional Project employees and divides it by 1.78, which is the County of San Mateo's figure for the average number of workers per household. DEIR at 3.14-11, tbl. 3.14-7. But using this figure to calculate housing demand for the Project assumes that almost all Facebook employees will live with other Facebook employees. The DEIR offers no evidence to support this peculiar assumption. Although undoubtedly some small portion of Facebook employees will co-habitate, it is more likely that each new employee who moves to the area will need his or

her own housing unit, which he or she may share with family members or other people who do not work at Facebook. The DEIR cannot rely on unsupported assumptions. Pub. Res. Code § 21082.2(a) (a lead agency's determination of impacts must be "based on substantial evidence," which does not include "speculation, unsubstantiated opinion . . . [or] evidence which is clearly inaccurate").

Third, the DEIR's assumptions about Menlo Park's future housing availability are questionable. Menlo Park has approved almost no new affordable housing in the recent past. From 1999 through 2006, Menlo Park's fair share of the region's need for new housing included 184 units affordable to very-low income households, 90 to low income households, and 245 to moderate income households. But according to data from the Association of Bay Area Governments ("ABAG"), the City issued permits for almost none of these affordable units: zero very-low income, zero low-income, and only 11 moderate income.⁸ As a result, the DEIR's predictions of how much housing will be available in Menlo Park, and particularly for the more than 28 percent of Facebook employees who will be earning lower incomes (*see* DEIR at 3.14-15) is not based on substantial evidence.

The DEIR's failure to break down housing needs by income for each jurisdiction also skews the analysis. Given the DEIR's admission that most jurisdictions in the mid-Peninsula have very high home prices, and that 28 percent of Facebook employee households will be earning low or very-low incomes, the DEIR needs to specifically analyze the Project-generated housing demand for low- and very-low-income earners, and assess whether there is enough of this kind of housing available within surrounding jurisdictions or whether it will necessitate new construction. The DEIR only does the first part of this, analyzing the number of homes that would be needed for certain income levels. However, it does not assess whether these numbers exceed the available housing stock, thereby leading to a need for new construction of affordable homes. DEIR at 3.14-15. Given Menlo Park's difficulty in generating affordable housing, these impacts are particularly relevant. Likewise, given that East Palo Alto is one of the few locations on the mid-Peninsula with affordable homes, as well as with available land for constructing homes for various income levels, the Project's impacts on this jurisdiction are especially concerning.

⁸ ABAG, *A Place to Call Home: Housing in the San Francisco Bay Area 2007*, available at
<http://www.abag.ca.gov/planning/housingneeds/pdf/resources/A_Place_to_Call_Home_2007.pdf>.

In conclusion, employing such disparate time horizons for evaluating the significance of the Project's impacts on housing makes these impacts appear much less significant than they really are. This subverts CEQA's core purpose of "inform[ing] the public and responsible officials of the environmental consequences of their decisions before they are made." *Laurel Heights Improvement Ass'n v. Regents of the Univ. of Cal.*, 6 Cal. 4th 1112, 1123 (1993) ("*Laurel Heights I*"). Where, as here, evidence is submitted to an agency showing that an impact may be significant despite the significance standard used in the EIR, the agency must address that evidence. *Protect the Historic Amador Waterways*, 116 Cal. App. 4th at 1111 (holding that the agency failed to explain the rationale for finding insignificant impacts when it used its chosen threshold). Here, there does not appear to be any way the DEIR can justify its use of 2025 data in analyzing the Project's impacts on housing, but regardless, it has improperly failed to do so. *Id.*; *Napa Citizens for Honest Gov't v. Napa Cnty. Bd. of Supervisors*, 91 Cal. App. 4th 342, 362-63 (2001) (in determining the significance of impacts, EIR must "contain[] an adequate explanation of the drafters' reasoning, and of the data underlying that reasoning").

- C. The DEIR's Air Quality and Related Health Impacts Analysis Is Inadequate.**
- 1. The DEIR Incorrectly Asserts that There Are No Feasible Mitigation Measures to Reduce Significant Air Quality Impacts from Criteria Pollutants.**

The DEIR admits that the Project will emit large quantities of certain air pollutants, largely due to induced vehicle trips. DEIR at 3.5-30 to -31. It also admits that the impacts from emission of fine particulates ("PM₁₀"), reactive organic gases ("ROG"), and oxides of nitrogen ("NO_x") will cause significant impacts. *Id.* The DEIR's finding of significant impacts triggers CEQA's requirement that the lead agency adopt all feasible mitigation. Pub. Res. Code § 21002. However, instead of adopting any mitigation measures, or even listing possible mitigation measures that the agency found not to be feasible, the DEIR simply states, without support, that "At this time there are no feasible mitigation measures that would reduce the NO_x, ROG, and PM₁₀ emissions to less than significant." DEIR at 3.6-31.

This assertion is not supported by the facts and misapplies CEQA. First, as a matter of law, it is irrelevant whether available mitigation measures would reduce pollution to less-than-significant levels so long as mitigation measures would reduce the severity of those pollution impacts. CEQA requires that mitigation whenever there are significant impacts, even if the impacts remain significant after mitigation is implemented. *See infra*

Section IV. Thus, the DEIR must include feasible mitigation measures that will lessen the severity of the Project's air quality impacts, even if significant impacts remain.

Second, there is no substantial evidence to support the notion that no feasible mitigation exists to reduce the Project's emissions of NOX, ROG, and PM₁₀. These pollutants are emitted largely due to vehicle travel and related emissions. DEIR at 3.6-30. Thus, any measure that could reduce vehicle miles traveled, lessen Project-related vehicle trips, or encourage use of less-polluting vehicles, would constitute a valid mitigation measure. Although the Project already proposes a number of measures to reduce vehicle trips (e.g., create a bike/pedestrian tunnel to connect the two campuses, institute an employee trip reduction program for commuting, etc.), there are more measures the Project could incorporate. The Bay Area Air Quality Management District ("BAAQMD") recently issued new Guidelines to assist agencies with measuring and mitigating project impacts. The Guidelines suggest the following mitigation measures, all of which should be analyzed for feasibility in the DEIR:⁹

- Daily employee parking charges¹⁰
- Parking cash out program for employees who do not drive
- Allow or encourage telecommuting or compressed schedules so that employees do not have to drive to work as frequently

Other potentially feasible mitigation measures include the purchase or lease of electrical vehicles for Facebook's corporate fleet and construction of electric car charging stations. Moreover, Facebook could purchase or lease clean fuel vehicles (e.g., electric, gas-electric hybrid, or natural gas) for its shuttle and vanpool programs, which would substantially reduce emissions from these vehicles. In addition to or as an alternative to these measures, reduction in the daily trip cap would reduce vehicle trips and associated pollutant emissions, while allowing Facebook leeway in deciding how to comply with the cap. *See supra* Section III.A.5.

⁹ The Guidelines and recommended mitigation measures can be found at [http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CEQA/BAAQMD%20CEQA%20Guidelines May%202011 5 3 11.ashx](http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CEQA/BAAQMD%20CEQA%20Guidelines%20May%202011%205%203%2011.ashx) at 4-11 to -17.

¹⁰ *See supra* Section III.A.5.

In addition, other mitigation measures could partially offset the impacts from PM₁₀ pollution, even if they did not reduce the amount of pollution emitted by the Project. Given that the major source of this pollutant is vehicles on nearby roadways, mitigation measures could include installing vegetative buffers along roadways or air filters on nearby facilities occupied by sensitive receptors. These measures are described further below.

The DEIR must analyze public health impacts and the feasibility of these mitigation measures and include all measures that are feasible. *See Los Angeles Unified Sch. Dist. v. City of Los Angeles*, 58 Cal. 4th 1019, 1029 (1997).

2. The DEIR Incorrectly Asserts that There Are No Feasible Mitigation Measures to Reduce Significant Project-Level and Cumulative Toxic Air Contaminant Impacts.

The DEIR admits that the Project “could expose sensitive receptors to substantial TACs [toxic air contaminants], resulting in a potentially significant impact.” DEIR at 3.5-33. In addition, the Project will contribute to significant cumulative impacts from air toxics: “Due to the existing background traffic, cumulative cancer risk of 167 in a million, the cumulative cancer risk is above BAAQMD significance level of 100 in a million. Furthermore, the PM_{2.5} emissions of 1.3 µg/m³ exceed the significance threshold of 0.8 µg/m³.” *Id.* at 3.6-42. Traffic accounts for the vast majority of the cumulative air toxics impacts. *Id.* at 3.6-43.

Again, the DEIR uses the incorrect legal standard in determining whether there are feasible mitigation measures, stating that “[t]here are no feasible Project-related mitigation measures that will reduce the impact to less than significant. Therefore, the cumulative health impacts remain significant and unavoidable.” *Id.* at 3.6-44. Likewise, the DEIR ignores various mitigation measures that could, in fact, mitigate impacts that TACs will have both on Project employees as well as nearby residents.

The DEIR acknowledges that there are potentially significant health risks for individuals living or working within 500 feet of freeways or busy roads. *Id.* at 3.6-2 (citing California Air Resource Board, *Land Use Handbook*). The DEIR fails to mention, however, that BAAQMD has recommended various mitigation measures for projects located

within this distance from roadways. Specifically, BAAQMD recommends the following measures to reduce impacts from fine particulate matter and other TACs:¹¹

- Projects that propose sensitive receptors adjacent to sources of diesel PM (e.g., freeways, major roadways, rail lines, and rail yards) should consider tiered plantings of trees such as redwood, deodar cedar, live oak and oleander to reduce TAC and PM exposure. This recommendation is based on a laboratory study that measured the removal rates of PM passing through leaves and needles of vegetation. Particles were generated in a wind tunnel and a static chamber and passed through vegetative layers at low wind velocities. Redwood, deodar cedar, live oak, and oleander were tested. The results indicate that all forms of vegetation were able to remove 65–85 percent of very fine particles at wind velocities below 1.5 meters per second, with redwood and deodar cedar being the most effective.
- Install a ventilation system in affected structures that is certified to achieve a performance effectiveness, for example, to remove at least 85% of ambient PM_{2.5} concentrations from indoor areas. Air intakes should also be located away from emission sources areas, such as major roadways.
- Install passive (drop-in) electrostatic filtering systems, especially those with low air velocities (i.e., 1 mph), in affected structures.

These measures should be implemented at the Project site to protect the health of Project employees. San Francisco requires similar measures for new residential development located near freeways and busy roadways, and these measures make equal sense for commercial development such as the Project. For example, San Francisco requires that new residential development near freeways provide mechanical ventilation systems with best available supply intake air location; with fresh air filtration and building designs; and with reduced infiltration to mitigate particulate exposure. San Francisco Health Code, Art. 38, §§ 3801-3813. *See also Assessment and Mitigation of Air Pollutant Health Effects from Intra-urban Roadways: Guidance for Land Use Planning and Environmental Review*, <<http://www.sfdph.org/dph/files/EHSdocs/AirQuality/MitigateRoadAQLUConflicts.pdf>>, at 20-21.

¹¹ <http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CEQA/BAAQMD%20CEQA%20Guidelines_May%202011_5_3_11.ashx> at 5-17.

In addition, the Project could pay to install such ventilation and filtering systems in nearby hospitals, schools, nursing homes, and similar facilities located immediately adjacent to roadway segments and intersections where Project air quality impacts are most severe. Another potentially feasible mitigation measure includes contributing toward an urban forestry program that would fund tree planting in areas east of Highway 101. This would help screen out particulate matter and would have the additional benefit of mitigating GHG emissions.

3. The DEIR Fails to State Whether It Accounts for Emissions from Vans and Shuttles in Its Air Quality Analysis.

As noted previously, the DEIR's transportation analysis does not include shuttle and vanpool trips in its estimation of Project trips. *See supra* Section III.A.2. Given that the DEIR fails to account for shuttle and vanpool trips in its transportation analysis, it appears that it also fails to account for these trips in its estimate of emissions from all vehicle trips. The DEIR does not state whether or not it accounted for these trips in its air analysis. Rather, the DEIR's air quality impacts section states only that it is based on "VMT and trip[data] provided by DKS Associates and the Project Sponsor, respectively. This data includes an analysis of employee commute VMT when considering the TDM program." DEIR at 3.6-14. If the DEIR did not take the emissions caused by vanpool and shuttle trips into account in its air analysis, this is a failure to accurately account for all Project emissions. In addition, its failure to even describe whether or not it takes these trips into account also undermines the DEIR's value as an informative document.

4. The DEIR Bases Its Analysis on Assumptions Rather than Evidence.

The DEIR's air quality analysis is based on various data regarding the expected sources of pollutants. DEIR at 3.6-14 (e.g., natural gas usage, use of architectural coatings). Given that vehicular emissions represent the greatest single source of pollutants from the Project, it is particularly critical to use quality data in assessing the severity of impacts from vehicle trips. However, instead of basing its analysis on solid data, the DEIR bases portions of the analysis on unsupported assumptions. For example, the DEIR calculates how many weekday trips will be generated by the Project. But then, without explanation, it states that "weekend trips and VMT were assumed to be 10 percent of the weekday trips . . ." *Id.* Such unsupported assumptions do not constitute substantial evidence. Pub. Res. Code § 21082.2. In any event, it appears that a ten percent assumption for weekend trips may underestimate actual weekend trips. As *Fortune* magazine recently reported, at one point in 2011, Facebook apparently "called on engineers to work nights

and weekends for 60 days” Miguel Helft and Jessi Hempel, *Facebook vs. Google: The battle for the future of the Web*, *Fortune* (Nov. 29, 2011), available at <http://money.cnn.com/2011/11/03/technology/facebook_google_fight.fortune/index.htm?iid=SF_F_LN>.

In addition to providing data regarding how many workers regularly or frequently commute on the weekend, the DEIR should state whether shuttle or vanpool services run on the weekend. The Project’s emissions from vehicle trips could be substantially greater than currently disclosed if the DEIR’s assumptions are incorrect.

D. The DEIR Fails to Adequately Evaluate the Project’s Contribution to Climate Change.

1. The DEIR Overestimates the Energy Savings Compared to the Baseline at the East Campus.

The DEIR indicates that the Project will result in a net *decrease* in GHG emissions of 10,638 metric tons of CO₂e per year associated with energy use at the East Campus. DEIR at 3.7-23. Putting aside the erroneous use of a baseline several years prior to the release of the NOP, *see supra* Section II, review of the appendix that includes the data on which this projection is based reveals that the analysis is radically optimistic.

The Appendix notes that the baseline electricity use at the East Campus (from 2008, when the facility was occupied by Sun Microsystems) was 61,349,150 kwh/yr and natural gas use was 332,492 therms/yr. DEIR App. 3.7B, at 8. The baseline GHG emissions appear to have been generated based on this actual baseline energy use.¹²

To estimate the energy use under the Project at the East Campus—in the same buildings that were in use during the 2008 baseline period—the Appendix relies on average per-square-foot energy use, “energy intensity,” by buildings in three categories: office, food service/restaurant, and miscellaneous. DEIR App. 3.7B, at 2-3. These energy intensity factors are averages for the various building types derived from the 2002 California Commercial End-Use Survey (“CEUS”). *Id.* Using these averages, and adjusting them for the increased population density of the East Campus (6,600 employees under the

¹² For the reasons discussed in Section II above, this was an incorrect baseline. However, unlike the baseline used in the traffic and other analyses, it is at least based on data reflecting actual existing conditions in 2008, rather than hypothetical conditions.

Project versus 3,600 employees in the baseline) and the assumed enhanced energy efficiency of the retrofitting of the buildings, the Appendix estimates 20,272,270 kwh/yr of electricity use and 338,455 therms/yr of natural gas use. *Id.* at 8. In other words, the appendix estimates a net *decrease* of 41,076,880 kwh/yr at the East Campus attributable to the Project and a minor increase in natural gas use.

However, the CEUS estimates of average energy intensity appear to be a poor predictor of energy use at the existing buildings on the East Campus: applying the CEUS energy intensity factors to try to predict the East Campus's 2008 *baseline* energy use enormously underestimates the actual baseline use. Assuming the Project area distribution of office, food service, and miscellaneous uses for the baseline,¹³ the energy intensity factors used in the appendix would predict electricity use in the baseline condition of only 17,311,318 kwh/yr, as compared to the actual baseline use of 61,349,150 kwh/yr. In other words, the energy intensity factors used to estimate Project energy use plainly do not reflect the pre-Project conditions at the East Campus. Using this estimated baseline, the East Campus portion of the Project would involve a net *increase* of 2,960,952 kwh/yr. More significantly, the DEIR relies on the projected decrease in energy use at the East Campus to net out the projected increase in energy use at the West Campus. Accordingly, the unreliable estimates of the East Campus energy reduction call into question the projected energy use for the Project as a whole and the conclusions of insignificance based on that use.

Why was actual baseline energy use so much higher than the CEUS energy intensity factors would predict? Whatever the explanation for this massive discrepancy, one cannot find it in the DEIR or the appendix. However, that explanation is unlikely to be the age of the existing buildings. The CEUS energy intensity factors “are based on 2002 consumption data” and thus “the majority of the buildings in the [CEUS] survey were likely constructed before 2001.” CAPCOA, *Quantifying Greenhouse Gas Mitigation Measures* (Aug. 2010), App. D, at D-3.¹⁴ Accordingly, the simple age of the existing structures at the East Campus—which were built in the 1990s (DEIR App. 3.7B at 4)—

¹³ Even if, improbably, the Sun facility were composed entirely of restaurant/food service uses, which have higher energy intensity in the CEUS survey, the baseline actual energy use would still be massively higher than that predicted by application of the CEUS energy intensity factors.

¹⁴ The CAPCOA document is cited as a source for the GHG analysis in the DEIR. See DEIR App. 3.7B at 2.

cannot fully explain the enormous difference between the baseline energy use and that which would be predicted using the generic energy intensity factors used by the DEIR.

It is also unclear whether the discrepancy is attributable to the nature of the prior use of the buildings. In hypothesizing the baseline for the traffic analysis, the DEIR projects traffic for the Sun Microsystems campus. In doing so, it characterizes the baseline use of those buildings using the “Corporate Headquarters Building” land use category, DEIR at 3.5-33, the same period when the campus was using 61,349,150 kwh/yr of electricity. On the other hand, if, for example, the Sun campus’s higher energy use was caused by the greater intensity of computer uses at the facility, that would also tend to suggest that Facebook’s computer energy use will be greater than that reflected in the CEUS average energy intensities. *See infra.*

The DEIR must explain why it is appropriate to rely on the estimates generated using the CEUS factors when the available site-specific data points to such an enormously different result.

Furthermore, the CEUS projections of energy intensity associated with the “office” space at the East Campus are not a reliable basis for predicting energy use by the Project. The CEUS factors represent an *average* of large office buildings. Facebook is in the software business, roughly speaking, and its campus can reasonably be expected to use substantially more energy for computing than the average office building.¹⁵ At Facebook, employee workstations can be expected to be in constant use. In fact, the DEIR assumes that Facebook employees spend so much time on their computers that they have no need for task lighting at their workspaces. DEIR App. 3.7B at 3. Although the DEIR’s analysis includes an adjustment for the energy use of “office equipment” for the Project, it is based only on the increase in the density of occupancy, not on a difference between generic office uses reflected in the CEUS and the Project’s more-computer-intensive use. At the very least, the DEIR must defend its assumption that the energy demand for computer equipment at Facebook headquarters is no different from that of, for example, the headquarters of an insurance company or law firm. It is notable that the DEIR provides no data about energy use at Facebook’s headquarters buildings in Palo Alto before employees began to be moved to the Project site. The DEIR should disclose data for both

¹⁵ This is true even assuming that servers are located offsite and that the energy demands of those servers is appropriately beyond the scope of the EIR. As noted below, however, the EIR should have included that off-site energy use.

headquarters buildings and explain why or why not that data is likely to be representative of energy intensity at the Project site.

Finally, the DEIR provides an insufficient basis for concluding that the Project at the East Campus will result in significant energy savings compared to the baseline. The energy use memorandum states, “Energy efficiency will be achieved on the existing structures of the East Campus through the use of low lighting power density, daylighting, and controls.” DEIR App. 3.7B at 1. Apart from being vague (“controls”?), these efficiency improvements cannot explain the radical difference between the Project and the baseline. The DEIR indicates that only the energy intensity of interior lighting would be affected by the “Project Design Features.” *Id.* at 5, tbl. 4. Yet the CEUS energy intensity factors indicate that interior lighting represents only 28 percent of the total average energy use of a large office space. *Id.* at 3, tbl. 3. Accordingly, even entirely eliminating interior lighting would not bridge the gap between baseline and Project energy use.

2. The DEIR Does Not Address Offsite Energy Demand.

The DEIR provides little information about the nature of energy demand at the Project site. For example, it does not explicitly address the question whether all computer equipment serving 9,400 employees will be located on site, or whether those employees will be using networked off-site computers as well. The DEIR does not evaluate any off-site energy demand generated by Facebook employees. To the extent employees will rely on off-site servers to perform their jobs, the energy consumed by those servers should be evaluated in the DEIR as an indirect effect of the Project as surely as if Facebook had chosen to place them on the same physical property as the employees themselves.

3. The Flawed East Campus Baselines Used Elsewhere in the DEIR Also Undermine the Analysis of GHG Emissions.

As repeatedly noted above, the DEIR’s choice of an East Campus baseline—a fully operational Sun Microsystems campus prior to 2009—is improper under CEQA. *See supra* Section II. The GHG impact analysis for the East Campus relies on this defective baseline and is therefore defective. Moreover, the document that the DEIR relies on for its conclusions of significance, BAAQMD’s *California Environmental Quality Act Air Quality Guidelines* (May 2011 update) (“*CEQA Air Guidelines*”), expressly *rejects* the theory of the East Campus baseline adopted by the DEIR here:

If a proposed project involves the removal of existing emission sources, BAAQMD recommends subtracting the existing emissions levels from the

emissions levels estimated for the new proposed land use. This net calculation is permissible only if the existing emission sources were operational at the time that the Notice of Preparation (NOP) for the CEQA project was circulated (or in the absence of an NOP when environmental analysis begins), and would continue if the proposed redevelopment project is not approved. *This net calculation is not permitted for emission sources that ceased to operate, or the land uses were vacated and/or demolished, prior to circulation of the NOP or the commencement of environmental analysis.* This approach is consistent with the definition of baseline conditions pursuant to CEQA.

BAAQMD, *CEQA Air Guidelines*, at 4-5 (emphasis added). Because, after the 2008 baseline period, the East Campus first changed use when it was acquired by Oracle and then was vacated entirely, the “net” emission calculation undertaken by the DEIR is inappropriate.

Moreover, the DEIR’s baseline for transportation related GHG emissions is independently defective. As described above, the traffic analysis improperly uses a purely hypothetical baseline of vehicle trips based on trips allowable under the pre-Project CDA rather than based on *actual* vehicle trips. *See supra* Section III.A.1. That hypothetical baseline traffic is carried over to the transportation emissions portion of the GHG analysis. *See* DEIR App. 3.7, tbl. 12. Because that baseline is flawed, the conclusions about “net” GHG emissions predicated on that baseline are similarly flawed.

4. The DEIR’s Analysis of GHG Emissions from Transportation Does Not Include Emissions Associated with Facebook Shuttles and Vanpools.

As noted above, the DEIR’s transportation analysis does not include shuttle and vanpool trips in its estimation of Project trips. *See supra* Section III.A.2. The DEIR’s analysis of GHG emissions from transportation is based on the transportation analysis. *Compare* DEIR App. 3.7A, tbl. 12 (using 9,606 “net” daily trips for the East Campus and 6,350 for the West Campus) *with* DEIR at 3.5-104, tbl. 3.5-24 (same). Thus the analysis of GHG emissions is similarly flawed. The significance of this omission is likely even greater for the purposes of assessing the Project’s climate impacts than it is for assessing traffic impacts. Absent the use of low- or zero-carbon fuels, shuttles and vans are substantially less fuel efficient than ordinary passenger vehicles and thus will generate greater GHG emissions on a per-vehicle basis. The emissions associated with those trips must

be included in the analysis. That analysis must also include more information about the occupancy of these vehicles, their fuel economy, and trip distributions.

5. The DEIR's Selection of a Significance Threshold for GHG Emissions Is Flawed.

The DEIR identifies four alternative significance thresholds for GHG emissions, based in large part on thresholds adopted by BAAQMD. DEIR at 3.7-24. The document describes that BAAQMD identified “three options that can be used for comparison based on the lead agency’s discretion.” *Id.* The DEIR then selects “4.6 MT of CO₂e per service population,” a measure of Project GHG efficiency, as the threshold of significance. *Id.* at 3.7-24, -26.

The DEIR does not adequately justify its selection of the efficiency threshold. It asserts that “Emissions from a Project of this magnitude are not appropriate to compare to the second threshold, 1,100 MT of CO₂e per year,” which is one of the other thresholds identified by BAAQMD. *Id.* at 3.7-25. It provides no substantiation for this conclusion. The absence of any substantial evidence or explanation about why this standard is inappropriate is particularly problematic, because if the DEIR were to apply that threshold, the Project would have a clear significant impact—the Project would result in emissions over *15 times* the 1,100 MT CO₂e standard. *See* DEIR at 3.7-23, tbl. 3.7-5 (reporting Project emissions of 15,804 MT CO₂e per year).

While lead agencies properly exercise discretion in determining what constitutes a significant impact, they must rationally explain their decisions and support them with substantial evidence. *Protect the Historic Amador Waterways*, 116 Cal. App. 4th at 1111-12 (requiring a “statement of reasons” for differentiating significant and insignificant impacts); *Napa Citizens for Honest Gov’t*, 91 Cal. App. 4th at 362-63 (in determining the significance of impacts, EIR must “contain[] an adequate explanation of the drafters’ reasoning, and of the data underlying that reasoning”). The DEIR here offers no explanation for its selection of a significance threshold. The explanation required by CEQA is all the more important here, because the DEIR identifies several possible thresholds and the Project would have a clear significant impact under a threshold that the EIR, for some unstated reason, rejects.

6. Menlo Park Must Impose Conditions of Approval on the Project to Ensure that the Projected Energy Savings Are Realized.

The DEIR’s projections of enormous reductions in energy demand at the East Campus are merely that: projections. As noted above, these projections are under-

mined by the DEIR's own analysis. But moreover, they rely on vague and unenforceable energy efficiency goals, rather than concrete commitments. *E.g.*, DEIR App. 3.7B at 5 (“The *goal* of all East Campus buildings is LEED Silver certification.” (emphasis added)). To rely on the possibility that the Project may achieve such “goals” to conclude that the Project *will* have less than significant climate impacts, Menlo Park must ensure that those goals are in fact realized. To do so, Menlo Park should impose conditions of approval on the Project providing for (1) monitoring and reporting of actual Project energy use, and (2) implementation of further mitigation in the event that the Project's optimistic projections of radically improved energy efficiency fail to materialize. These enforceable requirements would be comparable to the trip cap that will be imposed on the Project and reduce transportation-related emissions.

IV. The DEIR Improperly Refuses to Recommend Mitigation Measures Because They Would Not Entirely Eliminate the Identified Impacts.

The DEIR must recommend adoption of mitigation measures that respond to a significant impact if they would partially ameliorate the impact, even if they would not reduce the impact to a level of insignificance. *See* Pub. Res. Code § 21002 (“agencies should not approve projects as proposed if there are . . . feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects . . .”); *id.* § 21002.1(a) (an EIR must “indicate the manner in which [] significant effects can be mitigated *or* avoided.”) (emphasis added); CEQA Guidelines § 15091(a)(1) (requiring finding that mitigation has been adopted to “avoid *or substantially lessen* the significant environmental effect” (emphasis added)); *id.* § 15126.2(b) (requiring an EIR to discuss “any significant impacts, *including those which can be mitigated but not reduced to a level of insignificance*” (emphasis added)); *see also* 1 Stephen Kostka & Michael Zischke, *Practice Under the California Environmental Quality Act* § 14.6 (2d ed. 2011) (“A mitigation measure may reduce or minimize a significant impact without avoiding the impact entirely.”). CEQA does not allow lead agencies to make the perfect the enemy of the good; they may not concede defeat merely because the available mitigation measures will not entirely solve the problem identified.

The DEIR implicitly and explicitly rejects appropriate mitigation measures because they would not entirely eliminate identified impacts. For example, as noted above, the analyses of traffic and air quality impacts refuse to propose mitigation measures that would reduce the severity of these impacts but would not reduce them to a level of insignificance. *See supra* Sections III.A.5 and III.C.1.

V. By Scattering Important Information and Analysis Across the DEIR Text and Numerous Appendices, the DEIR Prevents the Public and Decision Maker from Effectively Understanding and Evaluating that Analysis.

Although it makes sense to put raw data underlying an EIR's analysis in technical appendices, burying crucial analysis in appendices makes it impossible for the public and the decision maker to understand and evaluate the analysis of impacts.

The data in an EIR must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and decision makers, who may not be previously familiar with the details of the project. "[I]nformation 'scattered here and there in EIR appendices' or a report 'buried in an appendix,' is not a substitute for 'a good faith reasoned analysis.' "

Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, 40 Cal. 4th 412, 442 (2007) (quoting *Cal. Oak Found. v. City of Santa Clarita*, 133 Cal. App. 4th 1219, 1239 (2005)). "The decisionmakers and general public should not be forced to sift through obscure minutiae or appendices in order to ferret out the fundamental baseline assumptions that are being used for purposes of the environmental analysis." *San Joaquin Raptor Rescue Ctr. v. Cnty. of Merced*, 149 Cal. App. 4th 645, 659 (2007). Failure to adhere to this rule risks invalidation of the EIR. *Id.*

The DEIR ignores this rule in several areas. For example, to understand the traffic analysis and the assumptions undergirding that analysis, the reader must review the transportation impact portion of the DEIR text, a memorandum on "transportation assumptions," a memorandum describing the terms of the trip cap and its monitoring and enforcement, and a memorandum describing the transportation demand management program. Nowhere does the DEIR lay out in a single place and in a systematic fashion the steps taken to generate the baseline and Project traffic projections. Because the transportation analysis underpins other impact analyses (air pollution and GHG emissions), it is essential that the transportation analysis be clear and subject to public scrutiny. It is not.

Similarly, the DEIR divides its analysis of GHG impacts between the text and a panoply of tables (without accompanying explanation) and memoranda in the appendices. It provides no comprehensive explanation of how it estimated GHG emissions for the Project. The public and the decision maker accordingly cannot be expected to effectively evaluate the document's analysis and conclusions.

VI. Menlo Park Must Correct the Deficiencies in the DEIR.

The deficiencies in the DEIR indicated above must be corrected, either in the Final EIR, or if the requirements for recirculation are met, in a revised Draft EIR that is recirculated for review and comment. CEQA requires recirculation of an EIR when significant new information is added to the document after notice and opportunity for public review was provided. Pub. Res. Code § 21092.1; CEQA Guidelines § 15088.5. “Significant new information” includes: (1) information showing a new, substantial environmental impact resulting either from the project or from a mitigation measure; (2) information showing a substantial increase in the severity of an environmental impact not mitigated to a level of insignificance; (3) information showing a feasible alternative or mitigation measure that clearly would lessen the environmental impacts of a project and the project proponent declines to adopt the mitigation measure; or (4) instances where the draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the draft EIR was essentially meaningless. CEQA Guidelines § 15088.5(a); *Laurel Heights I*, 6 Cal. 4th at 1130. Given the extensive problems with the DEIR, it appears likely that recirculation will be required.

* * *

The foregoing are our comments on those portions of the DEIR that we have reviewed. As noted above, the omission of comments on portions of the DEIR should not be interpreted to mean that those portions are in full compliance with CEQA.

Please let me know if you have any questions about our analysis. Thank you for the opportunity to assist the City on this important topic.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Matthew D. Zinn

ATTACHMENT 2



January 25, 2012

City of East Palo Alto
Community Development Department
1960 Tate Street
East Palo Alto CA 94303

RE: Review Comments on Transportation Section of the Draft EIR for Facebook

CHS Consulting Group was engaged by the City of East Palo Alto to provide transportation planning services related to the review of the Transportation section of the Draft EIR (DEIR) for Facebook. This document represents our opinion on this matter, and includes a summary of critical comments below and an enclosure that provides detailed comments by page. Also enclosed is a copy of my resume for the record.

The following points summarize our critical comments.

- There was no consideration of critical streets in East Palo Alto besides University Avenue, and the analysis in the DEIR assumed only nominal project traffic would use University Avenue. It is our opinion that substantial volumes of Project traffic will use East Bayshore (via Embarcadero) and neighborhood streets including Pulgas, Clarke, and Bay Road to bypass University Avenue congestion to access the Project, and the resulting impact on University Avenue will be substantially greater than indicated in the DEIR. The facts regarding traffic problems in East Palo Alto caused by commuter traffic are well known and documented. The recent 2020 Peninsula Gateway Corridor Study (C/CAG, 2008) and Willow Road and University Avenue - Traffic Operations Study and Recommended Near Term Improvements (C/CAG, 2011) provide specific details regarding existing and future conditions, while the City's General Plan Circulation Element cites supportive historical facts and associated goals and policies. In our opinion, there needs to be more complete analysis, including consideration of mitigation monitoring and penalties, in the DEIR.
- Further to the above point, the DEIR (several locations under successive scenarios) documented Project impacts and mitigations (or impracticality thereof) at critical intersections in or serving East Palo Alto, such as University/Donohoe, Donohoe/US 101 Ramps, University/Bayfront Expressway, and Willow/Newbridge, indicate that the City of East Palo Alto will be significantly impacted by the Project in that access and circulation will be severely limited. This supports the point above that Project traffic will seek alternate routes in the face of substantial congestion on the Willow corridor, the assumed main access pathway to the Project.
- The City of East Palo Alto's relevant guiding documents, including the General Plan and others, were not included in the regulatory setting section of the document and should have been since the Project will impact City of East Palo Alto streets (reference page 3.5-2 in the DEIR).
- As stated on page 3.5-7/8, the DEIR assumed the intersections on University Avenue between US 101 and the Bayfront Expressway were maintained and operated by Caltrans ("under Caltrans jurisdiction"), which is untrue. These intersections are maintained and operated by the City of East Palo Alto. This fundamental assumption created a ripple effect in the analysis because analysis thresholds for State highways were applied instead of City of East Palo Alto thresholds.
- As described on pages 3.5-31/32, the trip generation and Transportation Demand Management (TDM) plan assumptions about mode use characteristics were extracted directly, it appears, from travel surveys of employees at the Palo Alto Facebook facility. Given transit services are much more plentiful and

proximate at the Palo Alto site than the Menlo Park site, the direct transfer of the survey findings may not be appropriate and additional clarifying details should be provided. This introduces the question about the credibility of the Project shuttle elements, among other TDM strategies, derived and presented in the DEIR. Our comments on this are in the main Transportation section and the DEIR appendices on the trip cap and TDM (Appendices E and F).

- The DEIR contained only brief references to transit impacts and no actual analysis of transit use and impacts. In our opinion this is incomplete, especially given the assumptions about relatively high transit usage by Facebook employees. (See page 3.5-66 for example.)
- There appear to be some mistakes in the trip generation calculations for the Project, as noted, for example, on page 3.5-72 and in the trip generation appendices (Appendix E page 3).
- The DEIR does not provide any analysis of traffic conditions with mitigations. This, we believe, is essential to properly describe conditions with the Project and mitigations.
- Regarding proposed intersection mitigations (listed in Table 3.5-31) and layout concepts, in Appendix I, which define the proposed mitigations, the content relating to the proposed intersection mitigations is questionable, and the presentation of this information is not clear.

This concludes our report.

Sincerely yours,
CHS Consulting Group



Paul J. Krupka, P.E.
Principal Transportation Engineer

Enclosures: Detailed Comments
 Resume for Paul Krupka

Facebook Campus Project DEIR Transportation Comments
Prepared for the City of East Palo Alto
CHS Consulting Group
January 25, 2012

DEIR Section 3.5 Transportation Comments

1. Page 3.5-1, Near Term 2018 Condition - This scenario includes 6,600 employees in the East Campus. Why is this scenario used to compare the next scenario to identify impacts in 2018? Shouldn't this "Near Term 2018 Conditions" scenario be a true "no project/build" case? In our opinion, it be more logical to include a 2018 no build scenario.
2. Page 3.5-1, Cumulative 2025 Condition - Only 3,600 employees in the East campus, correct?
3. Page 3.5-2, Regulatory Setting - City of EPA General Plan and related transportation matters should be included because the project impacts City of EPA
4. Page 3.5-7, Under the Existing Condition, Study Intersections and Roadway Segments, para 1, the DEIR states "City staff selected 34 intersections for analysis, as these are the intersections that would potentially be impacted by the Project." Other EPA intersections will be impacted by the project, including E. Bayshore at Clarke and Pulgas, and Bay Road at Clarke and Pulgas. These were not included and should be.
5. Page 3.5-8 - Intersections 20 - 23 are not State, they are City of EPA
6. Page 3.5-8, In para 1, the DEIR states "In addition, the impacts related to average daily traffic (ADT) added to local street segments were analyzed." Additional EPA segments will be impacted and should be analyzed, including: Donohoe between US 101 Northbound Ramps and E. Bayshore; E. Bayshore between Donohoe and Pulgas; Pulgas between E. Bayshore and Bay Road; Clarke between E. Bayshore and Bay Road; Bay Road between Pulgas and University Avenue.
7. Page 5.5-9, Roadway Network - As indicated in other comments, other EPA roadways will be impacted by the project and should be analyzed (Donohoe, E. Bayshore, Clarke, Pulgas, and Bay).
8. Page 3.5-12, Para 1 last line states that "...SR 109 and SR 114 operated at LOS E for the AM and PM peak hours." This statement is not supported by the analysis results presented in Table 3.5-1, which shows LOS D or better for University Avenue

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9. Figure 3.5-5a Existing Peak Hour Volumes - Provide Field Counts in Appendix.
10. Page 3.5-23, Table 3.5-1, Study Intersections 19-24 - See comment above (page 3.5-12) regarding differences in findings in this table and in CCAG monitoring study.
11. Page 3.5-23, Para 1 states "For East Palo Alto-controlled intersections, the intersection of University Avenue and Woodland Avenue operates at LOS D." The intersection of University and Donohoe also operates at LOS D according to the text.
12. Page 3.5-26, Under Routes of Regional Significance heading, the DEIR states in the last line that "...the analysis segments of US 101 and SR 84 currently operates at either LOS E or F. Refer to Table 3.5-4." University Avenue operates at LOS E as shown on Table 3.5-4
13. Page 3.5-26, Under Ramp Analysis heading, the DEIR states in the first line of the 2nd para that "The Project site is most directly accessed from US 101 by Willow Road." Substantial Project access is provided by University Avenue. Why are the US 101/University Ramps not included?
14. Page 3.5-30, Table 3.5-7, Study Intersections 20 -23 - These intersections are operated and maintained by East Palo Alto; therefore significance impacts should be based on East Palo Alto criteria.
15. Page 3.5-31, Para 2 states that "Based on this survey data, person and vehicle trip generation was projected for 6,600 employees at the East Campus for daily and peak period conditions. These vehicle trip generation estimates are proposed as the Trip Cap, whereby the Project Sponsor will limit the number of vehicle trips entering and departing the East Campus to the following Levels:..." The walking and biking distance between Palo Alto/ Menlo Park Caltrain station and Menlo Park FB site is three to four times the distance between California Caltrain Station and Palo Alto FB site. This may discourage some walking and biking and cause users to use motorized modes of transportation. Moreover, it suggests that the noted survey data may not be directly transferable to the new FB site. Thus, greater emphasis on TDM measures including shuttles is needed.
16. Page 3.5-31, Par 4 states "Currently, nearly 40 percent of employees commute by alternative modes (shuttles, public transit, walking and bicycling)..." Based on Appendix E, 30% use alternative modes. Please explain this apparent discrepancy.

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17. Page 3.5-31, Par 4 last line states "The proposed monitoring and enforcement strategy for Trip Cap compliance is described in Appendix 3.5-F. See the appendix comments. What penalty will be paid to East Palo Alto if the trip cap is not maintained?"
18. Page 3.5-33, under the Near Term 2015 Condition, the last line states "An ambient growth rate of 1 percent per year is added to the Existing Conditions for four years to reach the Near Term 2015 Condition. Is 1% an acceptable annual Growth Rate according to East Palo Alto? Shouldn't it be 5 years of growth between 2010 (counts) and 2015?"
19. Page 3.5-34, Table 3.5-8, Vehicle trips for 3,600 employees. It appears that this analysis used incorrect rates. Our calculations indicate the trips to be higher than the DEIR states -140 in AM Peak, 220 in PM Peak and 900 trips Daily.
20. Page 3.5-35, Table 3.5-9 - It appears that no development projects in East Palo Alto were considered in the analysis. Please explain.
21. Page 3.5-42, Under Palo Alto and East Palo Alto Intersections DEIR states that "...Project would have an impact if the LOS becomes E or F or the average control delay for the critical movements deteriorates by 4.0 seconds or more and the critical v/c value increases by 0.01 or more if the LOS is currently E or F." This is different from the criteria shown for East Palo Alto in Table 3.5-7, Intersection #27 for example. Is the delay and v/c considered only if the intersection is already performing at LOS E or F in baseline?
22. Page 3.5-43, last line states that "the ITE Trip Generation Manual (8th Edition, 2008) indicates only 55 percent of peak period traffic occurring during the peak hour." We cannot find this reference in the ITE Trip Generation Manual (8th edition)
23. Page 3.5-44, Table 3.5-11, - These overall trip numbers may be higher based on the trip generation values being higher. Thus project trips may be lower.
24. Figure 3.5-9 - What is the Trip distribution percentage on University Ave and Willow east of US101? Our rough calculation based on traffic and ramp volumes shows that 85% to 90% of project traffic traveling along US101 NB from San Jose etc to project in AM Peak and returning along US101 SB in PM Peak are assigned to Willow Road. This means that only 10 to 15% of project traffic is assigned to University Avenue and hence lower impacts are estimated.
25. Figure 3.5-10a - Provide In/out volumes at each entrance (East Campus has two)

26. Page 3.5-51, Table 3.5-12 - The “Sunnyvale case” ruling requires the comparison of build scenario with existing condition to determine the impacts. Why has this not been analyzed in this EIR?
27. Figure 3.5-13a - It appears this figure shows the 2018 Condition, but the title says 2015. Please clarify.
28. Page 3.5-61, Table 3.5-13, University Ave between Railroad Tracks and Purdue Ave and University Ave between Bell St and Runnymede St - These two University Avenue segments are within East Menlo Park City limits and significant impacts are not assessed because Principal Arterials do not have thresholds for assessments under Menlo Park's TIA Guidelines. But these segments are within East Palo Alto. Does East Palo Alto have guidelines for assessment of project impact? Also, we see 5,000+ project traffic on Willow but only around 600 vehicles on University. Is that correct? These two may be some of the reasons why there seems to not be many traffic impacts on East Palo Alto streets.
29. Page 3.5-66, TR-4 Impacts to Local Transit Systems in the Near Term 2015 East Campus Only Condition.- This is insufficient analysis to assess impact. Increased employment and emphasis on TDM means increase in transit and shuttle usage. Why has the load factors and transit capacity analysis not been conducted?
30. Page 3.5-67, Para 1 states: “The Project Sponsor has proposed to incorporate bicycle improvements as part of the Project, to encourage employee ridership to the Campus, and to improve the citywide bicycle network. These improvements, which are consistent with the City of Menlo Park's Comprehensive Bicycle Development Plan...” What about bike infrastructure improvements along University Avenue connecting Palo Alto Caltrain station and the East Campus. EPA is planning a new pedestrian/bike OC at US 101 to enhance this bicycle path/movement.
31. Page 3.5-69, Under Near Term 2018 Condition, DEIR states that “Full occupancy of the East Campus as detailed in the Near Term 2015 East Campus Only Condition trip generation is assumed.” Does this mean that the 2018 Condition include trips by 6,600 employees in the East Campus? If yes, see comment on page 3.5-1. As stated, this then is not the baseline condition for 2018 and the 2018 build alternatives should not be compared to this scenario. Also analysis for a 2018 no build alternative would need to be conducted.
32. Page 3.5-72, Para 1 last line states “growth). Full occupancy of the East Campus as detailed in the Near Term 2015 East Campus Only Condition trip generation is assumed.” The projects in the appendix were already incorporated in the 2015

Condition. What other projects were considered for 2018? Does East Palo Alto have any planned projects by 2018 that need to be incorporated?

33. Page 3.5-72, Under Trip Generation and Distribution 2nd paragraph, the DEIR states that “Based on these rates, occupancy of the West Campus would generate approximately 1,146 net AM peak hour trips (1,066 inbound trips and 80 outbound trips) and 880 net PM peak hour trips (97 inbound trips and 783 outbound trips). The ITE rates used here are not the same as in ITE Trip Generation 8th Edition. Based on the ITE rates, there would be 1,260 AM peak hour trips and 1,064 PM peak hour trips.
34. Page 3.5-78, Table 3.5-18 - “Sunnyvale case” verdict requires comparison of the with project scenario to the existing condition to assess impacts. That has not been done here.
35. Page 3.5-81, TR-6.1 West Campus Vehicle Trip Cap states that “East Campus. Para 3 states that “The 1,100 peak hour vehicle trip cap has been calculated in a similar fashion to the East Campus trip cap and is based on a comparative ratio between the East and West Campus employee totals in the following manner:...” Utilizing the peak period trip generation rate of 0.6 as estimated in appendix E, the trips generated by the West Campus would be $0.6 \times 2,600 = 1,600$. This means additional TDM measures need to be provided beyond what is being provided in the East Campus to maintain a 1,100 trip cap. What are these TDM measures? What penalty would be paid to East Palo Alto if these trip caps are not complied with?
36. Page 3.5-84, Willow Road and Newbridge Street - What other mitigation measures were tested that could have fully mitigated the impact?
37. Page 3.5-85, last para - Does East Palo Alto agree with this process?
38. Page 3.5-88, Table 3.5-19 - Same as comments for 2015 in Table 3-5-13. Please refer to those comments
39. Page 3.5-91, TR-9 Impacts to Local Transit System in the Near Term 2018 East Campus and West Campus Condition. - Same comment as 2015 Transit. Please refer to the 2015 Transit impact comment on Page 3-5-66.
40. Page 3.5-105, Table 3.5-25 - Same comment as 2015 and 2018 about the “Sunnyvale case” decision implications. Please refer to complete comment for table 3-5-12.
41. Page 3.5-113, University Avenue and Donohoe Street - What is the LOS after the mitigation is implemented? What other mitigations were considered?

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42. Page 3.5-114, paragraph 2 states that "If Caltrans does not approve the intersection improvements proposed within five years from the Development Agreement effective date, and the Project Sponsor 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 Project Sponsor shall be relieved of responsibility to construct the improvement and the bond shall be released." Is East Palo Alto okay with this?
43. Figure 3.5-24 - The values on this figure are exactly the same as on the prior figure (Cumulative with East Campus). This does not seem realistic. Was the correct information placed on the table?
44. Page 3.5-118, Table 3.5-26 - Same comment about thresholds for Principal Arterials. Please refer to comments in Table 3.5-13
45. Page 3.5-124, TR-14 Impacts to Local Transit System in the Cumulative 2025 East Campus Only Condition and the Cumulative 2025 East Campus and West Campus Condition. - Same comment as that for Transit impact under 2015 and 2018. Please refer to Transit impact comment in Page 3-.5-66
46. Table 3.5-31 Summary of Potential Intersection Mitigation Measures:
 - a. Marsh/Bayfront: Mitigation is of questionable feasibility, as it appears this improvement will require widening of the approach.
 - b. Marsh/US 101 NB: This description of the mitigation does not match the text description on page 3.5-83. Please clarify what is intended and required.
 - c. Marsh/Middlefield: The mitigations noted do not appear feasible. There does not appear to be sufficient right-of-way available to widen Middlefield Road at this intersection. There does not appear to be sufficient pavement width to stripe two receiving lanes on Marsh Road.
 - d. Willow/Middlefield: The function of the resulting improvement is questionable given the short distance available for two right turn lanes merge on Willow Road.
 - e. University/Donohoe: The resulting improvement – a right turn lane next to a free-running right-turning roadway (101 NB off-ramp) -- is very unusual and introduces new conflicts at this intersection. Also, it appears that there is not sufficient room to simply "stripe in" a new lane. Also, the impact discussion for this intersection in Page 3.5-113 and 114 says this intersection has significant and unavoidable impact. However, this table shows otherwise. Please clarify.

- f. Bayfront/Chrysler: This description differs from the text description, which says "restripe the right turn lane to a shared left/right lane." What was analyzed?

DEIR Appendix 3.5 Comments

Appendix E

1. Table 1 - Project Descriptions and Traffic chapters say that the Area of East Campus is 1,035,840 and West Campus is 440,000.
2. Figure 1 - Please provide a table with trips for each time period or put the values on the graph.
3. Page 3, #2 about peak hour - The peak hour based on the graph appears to start at around 8:30 or 8:45 with 570 inbound and 60 outbound trips. Why was 8 to 9 am used instead?
4. Page 3, #3 - Revise calculations if needed based on the above comment.
5. Page 3, #4 - What industry standard is being referred to?
6. Page 3, #5 - How was the daily trip generation rate calculated from peak hour trips?
7. Table 3, Person Rate - May need to be updated based on changes in Page 3 rate calculations
8. Table 3, General Office ITE Rates - Incorrect rates. Please update
9. Table 4, Vehicle Rate per employee - May have to be updated based on prior comments.
10. Table 4, Proposed Trip Cap - Higher peak volumes may require more shuttles and TDM measures to maintain proposed trip cap.

Appendix F

1. Page 2 under Monitoring, paragraph 2 states that "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. " What about similar monitoring in East Palo Alto along

University Ave? It appears that this would be reasonable given the concern that the impacts in EPA have been underestimated.

2. Page 4, Enforcement - Similar to the previous comment, it is very reasonable to involve East Palo Alto in all the TDM monitoring and enforcement discussions, given there are impacts in EPA, and the EIR should address that. Similarly, the project may introduce excessive parking within East Palo Alto; shouldn't penalties for non-compliance be invoked? It follows that thresholds need to be set and monitoring and penalties decided.

Appendix G

1. Page 5 - The referenced Figure 1 regarding shuttle access routes is not attached (it needs to be assigned a different number given there is already a Figure 1 in this document).

Appendix I

1. In Appendix I Conceptual Layout Plans for Mitigation Measures at Intersections:
 - a. Title Page: The sketches in this appendix are confusing and somewhat misleading given they are not annotated to connect them to mitigation measures listed in Section 3.5 Transportation of the DEIR or indicate elements that are stated to be infeasible in the noted DEIR section.
 - b. University/Bayfront (Proposed): The southbound through lane improvement is noted as not feasible on Table 3.5-31 of the DEIR.
 - c. Willow/Bayfront (Proposed): The added westbound left turn lane improvement is noted "may not be feasible" in Table 3.5-31 of the DEIR.
 - d. Marsh/Middlefield (Proposed): Widening of Middlefield Road appears infeasible due to right-of-way limitation. There does not appear to be sufficient pavement width on Marsh Road to simply restripe the receiving leg to accommodate two lanes.
 - e. Marsh/US 101 NB off ramp (Proposed): The sketch does not match the description in the DEIR on page 3.5-83. Clarify what is proposed.
 - f. Marsh/Bayfront (Proposed): It appears the improvement on the westbound leg may not be feasible because widening of the roadway may be necessary.
 - g. University/Donohoe (Proposed): The improvement shown is unusual and not customary in that a right-turn lane is placed across the island from a free-running right-turning roadway. Won't the right turns conflict at the merge point? Also, it appears widening of Donohoe may be required to accommodate the second lane.
 - h. Middlefield/Lytton (Proposed): Table 3.5-31 indicates the northbound left turn lane improvement is not feasible.

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- i. Bayfront/Chrysler (Proposed): The improvement shown does not match the description in Table 3.5-31. Clarify what was analyzed.
- j. Willow/Middlefield (Proposed): The function of the resulting "double right turn" improvement is questionable given the short merge distance on the receiving leg of Willow Road.
- k. Willow/Newbridge (Proposed): The function of the "added" westbound through lane is questionable given the short merge required on the receiving leg and the proximity of the downstream 101 on-ramp junction. The DEIR text indicates the added left turn lane improvement is not feasible. Table 3.5-31 in the DEIR says it "may not be" feasible. Please clarify.



Years of Experience:
30

Education:

B.E., Transportation Engineering,
Dartmouth College

B.A., Engineering Sciences, Dartmouth
College

Professional Registration:

Licensed Professional Engineer, State
of California (#C47497)

Licensed Traffic Engineer, State of
California (#TR1574)

Professional Affiliations:

Institute of Transportation Engineers
(ITE), Member

WTS International, Member

Paul Krupka has more than 30 years of diverse transportation engineering experience in transportation, traffic, and transit planning, engineering and design related to transit-oriented development, transit facilities (systems and stations), parking facilities, roadway and highway improvements including traffic control devices (signalization, ramp metering, signage and pavement delineation), large and small development projects (infill and green field), neighborhood, community, downtown, city, sub-area, county, and sub-regional plans, and transit and highway corridors.

Mr. Krupka's experience extends to all project phases including preliminary assessment, conceptual planning, feasibility, design and construction. He has helped his clients successfully deliver projects as a program manager, project manager, and technical specialist. Virtually all of Paul's project work has been in and around the San Francisco Bay Area and the Monterey Bay Area, making him one of the most knowledgeable transportation specialists in the region.

Mr. Krupka has extensive involvement with BART Transit System Development and Property Development departments in transit-oriented development projects at several BART stations. These multi-party projects have required Paul to be deeply involved in policy, planning, maintenance, and engineering details, whether representing BART, local agencies, other transit providers, or developers.

Mr. Krupka has substantial experience working with Caltrans on State highway projects in all phases of project development (planning, Project Initiation Documents (PIDs), preliminary engineering, final design) and is particularly adept in highway traffic operations analysis, traffic controls, facility design, construction phasing and transportation management planning.

Mr. Krupka is adept and experienced in problem solving, and has excellent qualifications in leadership and interpersonal communications. He emphasizes objective listening and respect of individuals' opinions in communicating with culturally and politically diverse audiences.

RELEVANT EXPERIENCE WITH CHS CONSULTING:

East Palo Alto Multi-way Stop Signs Study

Mr. Krupka was the principal investigator and traffic engineer of work for traffic engineering studies at two intersections in East Palo Alto to determine if multi-way stop signs should be installed. The study was done in accordance with the guidance set forth in the California Manual of Uniform Traffic Control Devices (California MUTCD). The results of the studies, including opinions whether multi-way stop signs should be installed as well as other traffic engineering observations, were used by the City to define necessary improvements.

Brisbane Baylands Development

Mr. Krupka is supporting the Universal Paragon Corporation, site developer, by evaluating the implications of the San Francisco/San Mateo Bi-County Study, which addresses future transportation system improvement requirements for a study area encompassing the Baylands site in Brisbane and several other major development sites in Daly City and San Francisco, with respect to future travel demands and potential cost sharing among stakeholders. He is also assessing transit service and land use implications of the Bayshore Intermodal Station Access Study, which addresses a potential expansion of the existing Bayshore Caltrain Station, with respect to the planned Baylands and the Visitacion Valley/Schlage developments.

Academy of Art University Institutional Master Plan

Mr. Krupka is project manager for the transportation element of the Institutional Master Plan (IMP) being prepared for the Academy of Art University (AAU) in San Francisco. An IMP is required for all educational and medical institutions in San Francisco, and is intended to inform City officials and the public of an institution's current and future growth plans. AAU is the largest private school of art and design in the United States. It is unique with respect to its spatial orientation – it occupies 40 buildings in the eastern half of San Francisco – and its reliance, by policy, on transit, including its own bus shuttle system, and other non-automobile modes to move its students, faculty and staff between “campus” buildings. The transportation element of the IMP effectively describes the existing character of the University with respect to San Francisco's multimodal system and assesses the relative changes associated with projected growth in enrollment over the next 10 years.

RELEVANT EXPERIENCE PRIOR TO JOINING CHS:

Stanford University Medical Center EIR Review

Mr. Krupka reviewed the transportation sections of the EIR for the Stanford Medical Center expansion on behalf of the City of East Palo Alto. His review provided objective opinions about the assumptions and analysis of critical peak period travel paths to and from the Medical Center, and how they affected City of East Palo Alto traffic conditions.

2020 Peninsula Gateway Corridor Study

Mr. Krupka was project manager and principal investigator, responsible for coordination of work and monthly interaction with policy and technical committee members representing numerous local agencies, C/CAG, SMCTA, and VTA. The objective of this study was to define and evaluate alternative traffic improvements in the corridor. Alternatives were developed to address the primary project goals -- facilitate access, enhance economic opportunities, optimize use of existing infrastructure, reduce congestion and local community impacts, and minimize environmental impacts on sensitive resources. The end product was a concise listing of prioritized projects, with conceptual plan and cross-section sketches, and their functional, physical, environmental, and cost tradeoffs.

Central Alameda County Freeway Study

Mr. Krupka was project manager and principal investigator, responsible for coordinating with ACCMA, involved agencies, ACTA, and Caltrans. The study required continuous interaction with policy and technical committee members, and the consulting team to develop a unique document, the Project Initiation Document (PID) for the Local Alternative Transportation Improvement Program (LATIP) signed by Caltrans and supporting a California Transportation Commission (CTC) action to commit funding. The purpose of this freeway system operational analysis and conceptual design was to develop a technical report that addresses the short- and long-range planning and the sequencing of freeway improvements that will be required to achieve the most practical traffic relief in the I-880, I-580 and I-238 corridors within a fund availability constraint.

Caltrans HOV/Express Lanes Business Plan

Mr. Krupka was project manager for the HOV/Express Lanes Business Plan, a Caltrans Headquarters project that resulted in a guiding document containing background research, problem statements, and actions related to existing and proposed policies and procedures for operating HOV and Express Lanes on Caltrans highways statewide. The Express Lane Business Plan, published in July 2009, is a framework that guides the future development and operation of the Express Lane network (either with conventional methods of HOV requirements or with expanded methods of tolling) into a coordinated, connected and commonly recognizable system for California.

Richmond Community Development Agency/Richmond Transit Village

Mr. Krupka has been continuously involved with the City of Richmond, CA redevelopment and engineering staff for eight years, helping secure and process State and Federal grants for project development and construction as well as providing management, design, and construction advisory services for public improvements at the Richmond Transit Village, including the landmark Transit Station Building and Plaza, completed in 2006, and the BART Parking Structure, now under construction. Guided by a three party (City/BART/Developer) Disposition and Development Agreement (DDA), the Transit Village is an excellent example of public-private partnership. The agreement stipulated that the private party, the Developer, contribute significant funding amounts for certain public improvements by depositing the portion of proceeds from home sales above an agreed baseline price back to the City.

Contra Costa Centre Transit Village Design-Build Project

Mr. Krupka was engaged as manager of the design review process by the developer to represent the developer and its design-build contractor team and architect with BART for the \$45M, 1,500-space parking garage addition at the Pleasant Hill BART Station, which made room for residential and commercial development.

Route 101/Willow Road PSR (PDS) Traffic Operations Analysis

Mr. Krupka was project manager for the analysis, which involved existing and forecast year 2025 traffic volumes for a full-cloverleaf interchange in Menlo Park, CA. A partial cloverleaf alternative was defined based on traffic forecasts and evaluated with respect to levels of service with and without the project at critical ramp termini and weaving sections.

Route 92 Widening PSR (PDS) Traffic Operations Analysis

Mr. Krupka performed a comprehensive analysis of traffic conditions on Route 92 between Route 101 and I-280. The evaluation involved existing accident conditions and existing and future (year 2025) levels of service for weaving and non-weaving freeway segments.

Contra Costa Transportation Authority Program Management Team

Mr. Krupka was responsible for monitoring and managing State Highway improvement projects funded by the Measure C sales tax, including the I-680/Sycamore Valley Interchange and the SR 24/Camino Pablo-Moraga Way off-ramp, as well as managing the Lamorinda School Bus System Evaluation. Day-to-day function, as an extension of CCTA staff, involved monitoring project activities, coordination with project sponsors, Caltrans, and utility providers, managing consultant contracts, and progress reporting to CCTA committees and Board.

Millbrae Avenue Railroad Overpass Project

Mr. Krupka was project manager for design of this overpass in Millbrae, CA, a six-lane over crossing of the Caltrain railroad corridor on the San Francisco Peninsula. He was responsible for developing a traffic handling plan involving temporary detours that complemented staged construction. It was necessary to maintain traffic on Millbrae Avenue during construction (50,000 ADT), which required building the overpass in two major phases, effectively one longitudinal half at a time. During the first phase, traffic was detoured via a four-lane temporary road adjacent to the structure construction zone. Traffic was shifted to the completed structure half to clear the construction zone for the second phase of construction. Construction activities were carefully defined in the construction documents and attendant agreements to allow for necessary coordination and site-specific work plan approvals by Caltrain as well as related approvals by the railroad and major utility providers.

VTA Vasona Corridor Alternatives Analysis

As Project Manager and Principal Investigator, Paul was responsible for directing the efforts of a multi-disciplined team conducting an alternatives analysis for the Vasona Corridor under contract to the Santa Clara County Transportation Agency. The corridor connects the cities of San Jose, Campbell and Los Gatos, beginning at the San Jose Diridon Station and ending at Vasona Junction. The studies developed physical and operational concepts for light rail transit, commuter rail, and express bus alternatives and analyzed the tradeoffs of these against a no-build case.

VTA Eastridge LRT Extension Feasibility Study

Paul worked with the Transportation Agency to study order of magnitude implications of LRT extensions in two promising corridors serving east San Jose. The emphasis of the study was to determine not so much the feasibility of specific LRT improvements, but rather the feasibility of further investment of planning, engineering and environmental study funds in specific corridors. Paul was the principal investigator in a four-step process that included selection of case study alignment concepts; assessment of ranges of costs and patronage; identification of future study issues, and communication of interim and final study results.

Broadway Transit Signal Priority Design Project

Mr. Krupka was Project Manager, responsible for conceptual planning and final design of transit signal priority elements on Broadway between Jack London Square and Grand Avenue in Oakland. This project was funded by AC Transit and was a critical element of AC Transit's Rapid Bus deployment. The conceptual phase involved evaluation of opportunities and constraints of two communications alternatives, twisted wire pair and spread-spectrum radio. Final design reflected the City's desire to replace all traffic signal controllers and make use of existing underground conduits to the extent feasible. Finally, the project included traffic signal timing analysis using Synchro, resulting in recommended changes in traffic signal operations and an overall improvement in bus and personal vehicle travel time through the corridor.

LAMMPS Concept Plan

Mr. Krupka was Transportation Task Manager, responsible for transportation planning and engineering analysis and developing pragmatic solutions for the Laurel Access to Mills, Maxwell Park, and Seminary (LAMMPS) Concept Plan in Oakland, CA. The area for this project, MacArthur Boulevard from High Street to Seminary Avenue, has been a long-standing concern of neighboring residents and users of the corridor because of poor function, access, and safety. The LAMMPS Concept Plan is a community-based multi-modal transportation plan that offers solutions to these concerns based on discussions with the community and technical studies of the corridor. Mr. Krupka managed the transportation team's activities and was the principal transportation investigator for the project. He helped facilitate the community outreach efforts, which involved field tours, workshops, and presentations. He authored the transportation pieces of the final report.

ATTACHMENT 3

CITY OF EAST PALO ALTO

Memorandum

Facebook Campus Project Draft Environmental Impact Report Comments

*(John Doughty, Director, Community Development Department,
Kathleen Kane, City Attorney,
Carlos Romero and David E. Woods, City Council Ad Hoc Committee)*

MISSION STATEMENT

The City of East Palo Alto provides responsive, respectful, and efficient public services to enhance the quality of life and safety of its multi-cultural community



CITY OF EAST PALO ALTO
COMMUNITY DEVELOPMENT DEPARTMENT
1960 Tate Street • East Palo Alto, CA 94303

Date: January 24, 2012

To: Honorable Mayor and Members of the City Council

Via: ML Gordon, City Manager

From: John Doughty, Director, Community Development Department
Kathleen Kane, City Attorney
Carlos Romero, City Council Member
David Earl Woods, City Council Member

Subject: Facebook Campus Project Draft Environmental Impact Report Comments

RECOMMENDATION:

Staff recommends that the City Council:

- 1) Consider the information contained in the Staff Report and comments provided during the public discussion;
- 2) Direct staff to prepare a formal comment letter to the City of Menlo Park regarding the Facebook Campus Project Draft Environmental Impact Report; and
- 3) Authorize Mayor Martinez to sign the final comment letter and forward to the City of Menlo Park no later than January 30, 2012.

ALIGNMENT WITH CITY COUNCIL STRATEGIC PRIORITIES:

The recommendation is primarily aligned with:

- Priority #1 *Enhance Public Safety and Emergency Preparedness*
- Priority #4 *Improve Public Facilities and Infrastructure*
- Priority #6 *Create a Healthy and Safe Community*

BACKGROUND:

On December 8, 2011, the City of Menlo Park released a Draft Environmental Impact Report (DEIR) for the proposed East and West campuses of Facebook (Project) proposed in the City of Menlo Park, adjacent to the City of East Palo Alto. The East Campus is proposed within the existing former Oracle/Sun Microsystems campus. The West Campus (formerly General Motors/Tyco Electronics) is proposed to be redeveloped with up to 440,000 square feet of structures. The Project calls for up to 9,400 employees within the combined campuses. The East Campus is currently permitted to house up to 3,600 employees based upon previous entitlements and

Facebook has initiated occupancy of the East Campus. Facebook is seeking authorization to increase the East Campus to a total of 6,600 employees and add up to an additional 2,800 on the West Campus. The proposal is unique in that Facebook has proposed to utilize a vehicle trip base cap rather than a more traditional employee based cap. As such, the Project proposes Transportation Demand Management (TDM) at levels not typically realized with projects located outside mass transportation corridors and dense areas like San Francisco. This site has been described by some Menlo Park residents as being “on the fringe of the City”.

The City of Menlo Park is the Lead Agency per the California Environmental Quality Act (CEQA). Per CEQA, an EIR is required where it has been determined by the Lead Agency that the project could lead to potentially significant unavoidable and unmitigatable effect on the environment. The EIR determined that there are three issue areas of significant unavoidable impacts (*See Attachment A – Menlo Park Planning Commission – Staff report dated January 9, 2012.*

A Notice of Preparation (NOP) was issued for the Project on April 21, 2011 in which comments were solicited regarding the scope of the environmental analysis. The City of East Palo Alto provided a written letter of response to the NOP on May 26, 2011 (*See Attachment B*). The City’s comments identified concerns in three principal areas: housing affordability and displacement; greenhouse gas emissions; and traffic/transportation.

On December 13, 2011, City of Menlo Park staff presented an overview of the Draft EIR and process to the East Palo Alto City Council and community. The City Council and community raised a number of concerns regarding the potential impacts of the Project on housing and transportation. Additionally, Mayor Martinez requested, in light of the upcoming holiday season, an extension of the comment period on the EIR from 45 to 60 days. Menlo Park staff indicated they did not have the authority to extend the comment period. At this meeting, the Mayor appointed an Ad Hoc Committee (Councilmembers Romero and Woods) to help staff coordinate formal comments on the Project.

On December 22, 2011, the mayor sent a formal request to the City of Menlo Park requesting a 15-day extension of the comment period (*See Attachment C – Letter from Mayor Martinez*). On January 10, 2012, the Menlo Park City Council approved a one week (7-day) extension of the comment period. At this point, comments are due by 5:30 PM on January 30, 2012.

The Ad Hoc Committee has met twice to discuss and coordinate comments regarding the Project. The staff report reflects the input of the Ad Hoc Committee.

ANALYSIS:

The City has taken the opportunity to review the Facebook Campus Project Draft EIR. In addition to City staff review, the City contracted with CHS Consulting (Paul Krupka) to provide additional assistance in review of traffic and transportation. The focus of staff

review has been on issues and impacts of the Project on the City of East Palo Alto; however, it is our intent to include comments and suggestions beyond those that have direct impacts to the City.

In general, we are disappointed that the Draft EIR does not adequately consider the potential impacts to the City of East Palo Alto or consider potential mitigation measures to address those impacts. Further, we are disappointed that the EIR has chosen to take the approach that partial mitigation of impacts is not warranted/desirable. In many instances, these partial mitigations could be of significant benefit to the residents of East Palo Alto and Menlo Park. This report has been prepared not as an all inclusive listing and discussion of the comments to the EIR, but as a means to convey to the City Council and community significant concerns and issue areas that staff, with concurrence, intends to include in the formal comment letter to the City of Menlo Park. The direction of the East Palo Alto City Council will be formulated into the City's formal comment letter that is due by January 30, 2012.

Staff is suggesting the following issue areas for inclusion in the formal letter:

Issues

A. General Issues

1. Section 3.2 of the DEIR references the documents, plans and regulations that apply to the Project. Notably missing in this Section is reference to the City of East Palo Alto General Plan which includes the City's Circulation Element and Certified Housing Element. These elements along with the context of the remaining elements should have been consulted, referenced and utilized in the analysis given the proximity of the Project to the City. Given that there is no reference to any City of East Palo Alto Plan, it can be assumed that none of the analysis included City policies and criteria.
2. The DEIR acknowledges the adoption of an amendment to the BCDC Bay plan in October of 2011. This revision includes climate change policies and adaptation strategies that are critical to protecting the SF Bay and the man-made structures adjacent to the Bay. As flooding is of significant concern to the City of East Palo Alto, failure of the Project to address and mitigate potential sea level rise and adaptation could be detrimental to the City of East Palo Alto. The DEIR should be revised to analyze the Project and include mitigations per the most up-to-date BCDC Bay Plan.
3. The DEIR is inconsistent in its use and documentation of data. As an example, the housing analyses and Greenhouse Gas analyses both discuss current employee places of residence; however, each appears to be using a different set of data. Further, the DEIR utilizes the American Community Survey in instances where far more reliable and quantifiable data is available. The ACS should be used only as a last resort as it is what it says, a survey not an analysis.

B. Specific Issues

1. Transportation--Vehicular

- a. The Draft EIR fails to analyze the potential vehicular traffic impacts on critical streets and intersections in the City. For those streets and intersections the DEIR chose to analyze, the DEIR concluded substantially less of an impact to the City of East Palo Alto transportation system than other studies and analyses have concluded.
- b. The DEIR identified only nominal Project traffic impact on University Avenue. Additionally, the DEIR misstated that Caltrans maintains signals along the University Avenue corridor (City versus Caltrans thresholds).
- c. The DEIR fails to consider that a significant number of Facebook employees are and will in the future, be arriving from the south on the Bayshore Highway (HWY 101) and to assign appropriate trip counts to East Palo Alto streets.
- d. The report assumes that employees commuting from the south will utilize bypass two earlier access options (Embarcadero Street in Palo Alto and University Avenue in East Palo Alto) in favor of traveling an additional miles further to exit at Willow Road. This conclusion not only defies logic, but is contradictory to how commuters are presently behaving.
- e. The report fails to acknowledge legitimate commuter options such as Embarcadero Road (Palo Alto) to East Bayshore Drive and the resulting impacts of cut-through traffic on East Palo Alto local streets including Pulgas Avenue, Clarke Street, Bay Road and University Avenue.
- f. The DEIR allocates 0-percent of the Project trips to University Avenue in the City of East Palo Alto with no justification for doing so.
- g. Despite having stated that 20+ percent of the current workforce resides in the City of Palo Alto, the DEIR fails to consider the commute activities of Palo Alto residents seeking access through the City of East Palo Alto.
- h. The DEIR fails to recognize and analyze traffic and commuter activity given the existence of a second access to Facebook less than 500-feet the intersection of University Avenue and the Bayfront Expressway. The DEIR assumes virtually all traffic will utilize Willow Road despite an unmitigatable intersection at Willow Road and Newbridge Street.
- i. It appears that the DEIR did not evaluate/include the analysis or conclusions contained in the 2020 Peninsula Gateway Corridor Study prepared by C/CAG in 2008 or the Willow Road and

University Avenue-Traffic Operations Study and Recommended Near Term Improvements prepared by C/CAG in 2011.

- j. Overall, the DEIR failed to address the potential impacts of the Facebook Project on the City of East Palo Alto roadway system. Existing congestion and delays will only be worsen along the University Avenue corridor in the City of East Palo Alto. Congestion, based on the DEIR, will only worsen along Willow Road in Menlo Park. Alternate routes will be sought and many of those routes will be in the City of East Palo Alto.

2. Transportation Demand Management (TDM)

- a. The Project proposes a trip based rather than employee based cap concept. This is particularly pertinent to the East Campus where the proponent proposes an almost doubling of the number of employees. As such the DEIR presumably assumed an almost 50% reduction in trips through the TDM program. While the City of East Palo Alto commends the proponent for their environmental leadership, we remain highly skeptical that the goal can be at the proposed location and suggest that the DEIR analyze the impacts should the TDM goal of almost 50% not be realized.
- b. The DEIR fails to analyze in detail how the Project will meet the TDM goals and appears to rely on the unsubstantiated information provided by the proponent. The DEIR must analyze more fully the proposed TDM program and should utilize substantiated data.
- c. It is unclear what data was used for the current employee places of residence. Was zip code data generated and utilized? If so, the DEIR should include the data. If it was not done, the zip code analysis should be completed.
- d. Unlike the Facebook site in Palo Alto, the proposed campus is located far from a rail corridor or transit hub. The site is located at the “fringe” of Menlo Park adjacent to the SF Bay. It lacks a core of high density residential for employees in proximity to the site. These factors tend to lead to higher TDM, but are not present at this site.
- e. The DEIR provides inadequate analysis of transit and potential light rail access and the impacts and needs of the transit/light rail system to serve the Project.
- f. The DEIR proposes that a penalty fee be assessed if the Project is found to be exceeding the trip based cap. This poses significant questions. First, how does payment of Citywide traffic impact fees (penalties) translate to addressing the impacts of the Project in Menlo Park? Secondly and more importantly, how will these fees address the impacts of the additional unmitigated trips on the City of East Palo Alto?

Monitoring at entrances to Facebook will not provide adequate information regarding the success of TDM and the true impacts of the Project. Additional analysis of the CEQA implications of this deferred mitigation is warranted including the allocation of a portion of these funds to the City of East Palo Alto for impact mitigation.

- g. The DEIR fails to analyze whether the penalties are adequate to encourage the proponent to meet TDM goals or are they simply a means to increase the employee base (is it just a cost of doing business?). It has been suggested that the City can revoke the permit if Facebook does not meet its obligations. Given the sheer size and number of employees, this does not appear to be a realistic scenario.
- h. The DEIR assumes that the workforce characteristics will remain relatively static. The workforce characteristics throughout the area have changed. Housing and lifestyle changes tend to occur with a maturing workforce which also influence commute patterns. The DEIR is looking at long term impacts without considering a changing workforce.
- i. The Final EIR should include an annual TDM monitoring and submit report to the City of East Palo Alto for its review.
- j. The TDM Program mitigation measure as currently proposed is inadequate because there is no enforcement mechanism to ensure that estimate trip reductions are actually achieved.
- k. The Mitigation Monitoring Plan should require annual traffic counts with specific daily trip limits. It should be enforceable with requirements to supplement the TDM program as needed to meet trip limits, or be subject to monetary penalties. Project phasing requirements should be another potential enforcement mechanism that could limit the square footage of future Project phases if trip reduction targets are not met.

3. Transportation--Non-Vehicular

- a. The DEIR fails to adequately analyze non-vehicular transportation needs. In particular, the DEIR inadequately addresses continuous and safe bicycle and pedestrian system needs within the City of East Palo Alto. Exhibits E and F of this report identify improvements that should be included as mitigation measures to the Project. These include bicycle and pedestrian improvements within the City of East Palo Alto that will assist facebook in meeting aggressive TDM (bicycle and pedestrian) goals.
- b. The Project proposes to mitigate its impacts via TDM methods without analyzing needs and mitigation measures for major corridors including University Avenue, Bay Road, and Newbridge Street. Further, the DEIR fails to analyze the lack of

pedestrian and bicycle access across HWY 101 from the City of Palo Alto to the City of East Palo Alto.

- c. The DEIR fails to analyze potential alternate Bay Trail alignments within the City of East Palo Alto to serve bicycle commuters from the south and west.
- d. The DEIR fails to analyze the safety impacts and implications of the increased traffic in the City of East Palo Alto and to identify potential mitigation measures.

4. Greenhouse Gas Analysis

- a. The data utilized in this analysis is unclear and suspect. The Technical Appendices indicates that information on commute/residence was provided by Facebook. In what form was this provided and how was it independently verified?
- b. As noted in the TDM discussion, the analysis failed to consider changes in workforce and commute patterns. Again assuming that the workforce will always be young and “hip” and living in the heart of San Francisco. Young and “hip” employees tend to eventually pair up and look at their lifestyle differently over time.

5. Housing

- a. The City remains steadfast in its belief that the Facebook Project will result in physical change to the environment and should be included in the DEIR. Further, the impact should be identified as significant and mitigations applied.
- b. The Keyser Marston Associates (KMA) Study was provided late to the community which limited the time for review by the City and the public. This document has not been included even as a Technical Appendix as it should be.
- c. The KMA Study was sloppy and cursory at best and reflected a lack of commitment to determining the potential impacts on housing in the City of East Palo Alto. Notably, the report indicates that their analyses of worker traits at Facebook were derived from newspaper articles rather than actual data.
- d. The study utilized the U.S. Census for data. As noted earlier, the U.S. Census and ACS are not the most accurate source of data on housing vacancies and occupancies. Notably, the census data reflected vacancy rates that were artificially created and manipulated by a large holder of property. Had analyses been conducted and/or questions been posed to the City, we are confident that the KMA Study would reflect different conclusions.
- e. Because of the artificially induced vacancies, KMA concludes that approximately 1000 rental units change occupancy every four years in the City of East Palo Alto. This number is

inaccurate and reflects market manipulation rather than sustained and historic vacancy rates.

- f. The KMA Study concludes that there will likely be displacement of between 100 and 160 households in the City by the Facebook Project. Without more accurate data, the City does not feel that it is possible to reach this conclusion. That being said, the report should acknowledge the implications of the difference in household formations between the City of East Palo Alto and Menlo Park. Using current census figures, the displacement of persons would be almost three times greater in the City of East Palo Alto for a similar number of units.
- g. Any displacement/dislocation of lower income households in East Palo Alto is significant given the limited options available for replacement housing in the region.
- h. The DEIR failed to address how the City of Menlo Park will address housing needs of new employees including the 300 plus low-skilled employees proposed to be added.

6. Air Quality

- a. The DEIR concludes that Air Quality impacts of the Project are significant and unavoidable and that there are no feasible mitigation measures. The City of East Palo Alto believes that the analysis fails to evaluate potential partial mitigation measures and chooses instead to foreclose on solutions. Notably, assistance in developing an urban forestry program in areas east of HWY 101 including the City of East Palo Alto would contribute to improved air quality as well as GHG reductions.

7. Public Health

- a. The DEIR failed to acknowledge and analyze the potential impacts of the Project on public health. City of East Palo Alto City residents will be exposed to additional pollutants and noise as a result of increased traffic. City residents, particularly children, are susceptible to these impacts and already suffer at higher levels than neighboring communities. A public health study similar to that conducted on the Stanford Hospital Expansion project should be included in the DEIR.

8. Public Services

- a. The Menlo Park Fire District has indicated publicly that they believe the impacts of the Project are significant. The City of East Palo Alto will await the formal response; however, any analysis and discussion of mitigation measures should include a broader perspective including the impacts to fire service and response times within the City of East Palo Alto.

CONCLUSION:

These comments are a reflection of significant issues and concerns identified in the Draft EIR for the Facebook Campus Project. With the consent of the City Council, staff will prepare a formal letter of response to the City of Menlo Park. Staff anticipates additional issues and suggestions from the public and will ask the City Council to provide specific direction as to whether the City's response should include those points. Additionally, we anticipate that other related comments and concerns will arise as we prepare the letter and as such, the letter will likely include comments beyond those noted. The City's traffic consultant is continuing to review the DEIR and will be providing additional details of concern. The Ad Hoc Committee plans to review the draft final letter later in the week. Staff is also recommending that Mayor Martinez be authorized to sign the letter.

FISCAL IMPACT:

The review of this DEIR by staff has no direct impact on the General Fund. These activities are part of the normal duties of City staff. The City entered into a contract with CHS Consultants for an amount not to exceed \$27,000. This contract is being funded by the General Fund.

Attachments:

- Attachment A - Menlo Park Planning Commission Report of January 9, 2012
- Attachment B - City Response Letter to NOP May 26, 2011
- Attachment C - Letter from Mayor Martinez
- Attachment D - Section 1 of DEIR
- Attachment E - Map of Needed Bike Route Improvements in East Palo Alto
- Attachment F - Map of Needed Pedestrian Crossing Improvements in East Palo Alto

ATTACHMENT A



PLANNING COMMISSION STAFF REPORT

FOR THE PLANNING COMMISSION
MEETING OF JANUARY 9, 2012
AGENDA ITEMS: E1, F1, G1

LOCATION: East Campus – 1601 Willow Road
West Campus – 312 and 313 Constitution Drive

APPLICANT: Facebook Inc.

EXISTING USE: East Campus – Corporate Campus
West Campus – Unoccupied Office Buildings

PROPERTY OWNER: East Campus – Wilson Menlo Park Campus
West Campus – Giant Properties LLC (West Campus)

PROPOSED USE: East Campus – Corporate Campus
West Campus - Corporate Campus

APPLICATION: East Campus - Conditional Development Permit Amendment, Development Agreement, and Environmental Review
West Campus – Environmental Review

ZONING: East Campus - M-2-X (General Industrial, Conditional Development)
West Campus - M-2 (General Industrial)

PROPOSAL

Facebook Incorporated (Facebook) seeks to develop an integrated, phased permanent headquarters to accommodate the company's long-term growth potential. This phased approach includes the development of an East Campus, followed by the development of a West Campus. Currently, Facebook is seeking land use entitlements for the East Campus, as well as environmental review for the entire Project, per the requirements of the California Environmental Quality Act (CEQA). The requested land use entitlements for the East Campus include amendment of the existing Conditional Development Permit (CDP) to convert the employee cap to a vehicular trip cap, as well as execution of a Development Agreement. Project plans, including schematic plans for the West Campus, are included as Attachment B to this staff report.

The 56.9 acre East Campus is currently developed with nine buildings, which contain approximately 1,035,840 square feet. The existing entitlements for the site allow up to 3,600 employees to occupy the site, and Facebook currently has approximately 2,000 employees at the site. The project sponsor has completed tenant improvements at the site to convert the hardware-intensive laboratory spaces and individual hard-wall offices to a more open, shared workspace characteristic of the Facebook work environment, which is intended to foster innovation, teamwork, and creativity.

As part of the proposed Project, the project sponsor seeks to convert the existing employee cap into a vehicular trip cap. The trip cap includes a maximum of 2,600 trips during the AM Peak Period from 7:00 a.m. to 9:00 a.m. and the PM Peak Period from 4:00 p.m. to 6:00 p.m. and a maximum of 15,000 daily trips. The trip cap would allow approximately 6,600 employees to occupy the East Campus.

The environmental review analyzes this proposal, as well as the build-out of the approximately 22-acre West Campus. This second phase of the Project contemplates construction of five buildings totaling approximately 440,000 square feet of gross floor area, consistent with M-2 zone requirements, and an associated five-story parking structure. The proposed height of the buildings would exceed the 35-foot maximum height limit in the M-2 zone and a rezone to M-2-X and approval of a CDP would be required to exceed the height limit. The project sponsor anticipates submitting land use entitlements for the West Campus in the latter part of this year.

The second phase of the Project is anticipated to house approximately 2,800 employees for a total of approximately 9,400 employees occupying both the East and West Campuses at full occupancy. The proposed Project would result in approximately 5,800 more employees than are currently permitted under the existing land use entitlements for the East Campus. However, unlike the existing entitlements for the East Campus, the Project proposal does not include a cap on the number of employees.

Specifically, the proposed phased Project would require the following actions:

East Campus – Phase I

1. **Conditional Development Permit Amendment** to convert the existing 3,600 employee cap to an AM and PM peak period and daily vehicular trip cap;
2. **Development Agreement** to create vested rights in project approvals, address implementation of the proposed design and infrastructure improvements in the project area, and specify benefits to the City; and
3. **Environmental Impact Report (EIR)** to analyze the potential environmental impacts of the proposal.

West Campus – Phase II

1. **Rezoning** the project site from M-2 to M-2-X to exceed the M-2 zoning district's 35-foot height limit and build up to 75-feet;
2. **Conditional Development Permit** to establish development regulations;
3. **Lot Merger/Lot Line Adjustment** would be required to merge the existing two parcels that make up the West Campus site; alternatively, a lot line adjustment would be required to ensure that no buildings cross property lines;
4. **Lot Line Adjustment** would be required to facilitate additional Emergency Vehicle Access (EVA);
5. **Heritage Tree Removal Permits** would be required for each heritage tree to be removed;
6. **BMR Agreement** for the payment of in-lieu fees associated with the City's Below Market Rate Housing Program;
7. **Development Agreement** to create vested rights in project approvals, address implementation of the proposed design and infrastructure improvements in the project area, and specify benefits to the City; and
8. **Environmental Impact Report (EIR)** to analyze the potential environmental impacts of the proposal (one EIR was prepared to analyze both the East and West Campus phases of the Project).

In addition, the land use entitlement process includes the development and review of a Fiscal Impact Analysis (FIA), which is currently available in draft form.

BACKGROUND

On February 8, 2011, the City received a preliminary application from Facebook to commence the environmental review process for the Facebook Campus Project described above. Since that date, numerous meetings have been held and milestones achieved, which are specified in the table below.

Date	Body/Milestone	Description
4/15/11	City Council	Review of EIR Notice of Preparation (NOP) schedule
4/21/11	Milestone	NOP released for public review
5/10/11	City Council	Authorization for City Manager to enter into consultant contract for transportation analysis
5/16/11	Planning Commission	EIR scoping session and study session
6/14/11	City Council	City Council authorization for City Manager to enter into consultant contracts for EIR and FIA
8/23/11	City Council	Review of public meeting process and tentative schedule
10/18/11	City Council	Appointment of Council Development Agreement subcommittee
11/15/11	City Council	Update on status of release of Draft EIR and Draft FIA
12/8/11	Milestone	Release of Draft EIR and Draft FIA
12/8/11	Public Outreach Meeting	To inform the community about the proposed project and the documents available for review
12/12/11	Bicycle Commission	To inform the community about the proposed project and the documents available for review
12/13/11	East Palo Alto City Council Study Session	To inform the Council and community about the proposed project and environmental impacts specific to the City of East Palo Alto
12/14/11	Transportation Commission	To inform the community about the proposed project and the documents available for review
12/15/11	Green Ribbon Citizen's Commission	To inform the community about the proposed project and the documents available for review
12/21/11	Milestone	Release of East Palo Alto Housing Affordability Analysis
1/4/12	Housing Commission	To inform the community about the proposed project and the documents available for review
1/4/12	Environmental Quality Commission	To inform the community about the proposed project and the documents available for review

Staff reports, presentations and minutes (the Public Outreach meeting did not have formal minutes prepared and some meeting minutes were not yet available at the publication date of this staff report) for the above referenced meetings are available at the City's web site, or at the Community Development Department at City Hall.

MEETING PROCEDURE

The purpose of the January 9, 2012 Planning Commission meeting is threefold, and includes the following items:

1. **Public Hearing Item - Draft Environmental Impact Report:** Review of the Draft EIR for the Facebook Campus Project and provision of an opportunity for Planning Commissioners and members of the public to comment individually on the Draft EIR during the 47-day public comment review period, running through

January 23, 2012. Comments should be informed by the summary analysis in the Environmental Review section below and presentations by City staff at the January 9th meeting. Comments received during the public hearing on the Draft EIR will be transcribed by a court reporter and responded to as part of the Final EIR. Comments may also be submitted as written correspondence before the end of the comment period. The response to comments in the Final EIR will be reviewed at a subsequent Planning Commission meeting.

2. **Regular Business Item - Draft Fiscal Impact Analysis:** Review of the Draft FIA for the Facebook Campus Project and provision of an opportunity for Planning Commissioners and members of the public to comment individually on the Draft FIA. Comments should be informed by the discussion in the Draft FIA and presentations by City Consultants at the January 9th meeting. Comments received on the Draft FIA will be transcribed by a court reporter and included and responded to in the Final FIA.
3. **Study Session Item - Review of Facebook Campus Project Proposal:** An overview of the Project proposal, inclusive of the Development Agreement and associated public benefits will be provided and the Planning Commission and public will have the opportunity to provide feedback on the Project proposal

Given the extensive nature of the topics to be covered at the meeting, staff recommends the following meeting procedure to effectively and efficiently move through the three items included on tonight's agenda for the Facebook Campus Project

Draft Environmental Impact Report Public Hearing

1. Introduction by Staff
2. Draft EIR Overview Presentation by Staff
3. Public Comments on Draft EIR
4. Commission Questions of Staff/Consultant/Project sponsor on Draft EIR
5. Commissioner Comments on Draft EIR
6. Close of Public Hearing

Draft Fiscal Impact Analysis Regular Business Item

7. Introduction by Staff
8. Draft FIA Overview by City Consultant
9. Public Comments on Draft FIA
10. Commission Questions of Staff/Consultant on Draft FIA
11. Commissioner Comments on Draft FIA

Project Proposal Study Session

12. Project Overview Presentation by the Project sponsor
13. Public Comments on Project Proposal
14. Commission Questions of Staff/Project sponsor on Project Proposal
15. Commissioner Comments on Project Proposal

Immediate next steps after the January 9th meeting include a City Council Study Session on January 31st for the Council to learn more about the Project and identify any other information that is needed to ultimately make a decision on the Project.

Subsequent to the Study Session on January 31st, the City Council will have a regular business item at their meeting on February 14th to consider feedback from the Commissions, discuss environmental impacts and mitigations, public benefit, fiscal impacts, Project proposal, and provide direction on parameters to guide development agreements negotiations. Publication of the Final EIR and Final FIA are anticipated in April, with additional Planning Commission and City Council meetings in April, May and June of 2012.

PUBLIC HEARING ITEM D- 1: ENVIRONMENTAL REVIEW

The Draft EIR analyzes the potential impacts of the Project across a wide range of impact areas. The Draft EIR evaluates 16 topic areas as required by the California Environmental Quality Act (CEQA), as well as one additional topic area specific to the project site (Wind). The 16 required topic areas include: Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use, Mineral Resources, Noise, Population and Housing, Public Services, Transportation, and Utilities. Given the phased nature of the Project, these topic areas were analyzed separately for both the East and West Campus, and then collectively for the entire Project proposal. Since the East Campus component of the project does not include ground disturbing activities or new construction, topic areas whose impacts are directly tied to ground disturbing activities and new construction were not analyzed for the East Campus. These topic areas include Aesthetics, Cultural Resources, Biological Resources and Wind.

The Draft EIR identifies significant and unavoidable impacts in the following categories: Air Quality, Noise, and Transportation. These significant and unavoidable impacts are explained in more detail below. A complete list of impacts and mitigation measures is included in section S.1 – Summary, of the Draft EIR. A comprehensive table of all potential environmental impacts and associated mitigations measure can be found in Tables S-1 (East Campus) and Table S-2 (West Campus), which begin on page S-5. Given the significant and unavoidable impacts associated with the Project, the City Council would be required to adopt a Statement of Overriding Consideration, if it determines that the Project's benefits outweigh the environmental impacts.

Summary of Significant and Unavoidable Project Impacts

The proposed Project would result in significant and unavoidable impacts in three issue areas. Specifics of those impacts are discussed below.

Air Quality

The increase in air pollutants, including nitrogen oxide (NO_x), reactive organic gas (ROG), and particulate matter (PM₁₀), during project operation would exceed the Bay Area Air Quality Management District (BAAQMD) significance thresholds. This impact is directly attributable to increased vehicle emissions, and there is no feasible mitigation measure, beyond what the Project sponsor is already doing (e.g., Transportation

Demand Management program, vehicular trip cap) to reduce emissions from Project operations. Therefore, the impact is significant and unavoidable. This impact is also identified as a significant and unavoidable cumulative impact.

In addition, the proposed Project would result in a cumulative impact related to the exposure of sensitive receptors to toxic air contaminants (TAC). It is important to note that the Project's contribution to this impact is less than five percent, and that the sensitive receptors that would be exposed to TACs are already being exposed as a result of their proximity to major roadways. Per BAAQMD standards, these existing sensitive receptors are located closer than recommended to sources of significant TACs. As such, there are no feasible mitigation measures to address this impact and it remains significant and unavoidable.

Noise

As a result of the increase in traffic associated with the Project, there is an associated increase in traffic related noise. Specifically, the Project would result in significant increases in traffic noise on Marsh Road between Scott Drive and Bohannon Drive, and on Willow Road between O'Brien Drive and Newbridge Street. This increase in noise levels would expose people or generate noise levels in excess of applicable standards. Specifically, the noise at these locations would increase by 1.0 dBA CNEL, which exceeds the Federal Transit Administration's (FTA) significance threshold. The trigger for exceeding the threshold is an increase of 1.0 dBA CNEL or more due to the presence of residential uses that are currently exposed to relatively high ambient noise levels. Therefore, the proposed Project would expose persons to noise levels in excess of established standards. Mitigation measures, such as sound walls, were explored to mitigate this impact, but were found to be infeasible due to Caltrans standards pertaining to sound walls, existing residential driveways that require breaks in the sound walls, the potential for creating aesthetic impacts and the resulting isolation of residential units located behind the sound walls. As such, there is no feasible mitigation available to minimize this impact, and therefore, the impact remains significant and unavoidable.

The noise increase resulting from traffic noise discussed above would also result in substantial, permanent increases in the ambient noise levels at the identified roadway segments. As discussed above, there are no feasible mitigation measures for this impact, and therefore, the impact would remain significant and unavoidable.

In addition to the significant and unavoidable operational noise impacts, vibration associated with pile driving during project construction on the West Campus could expose adjacent uses to vibration levels that may damage sensitive research and manufacturing equipment as well as any on-site occupants in the short term. Mitigation measures are included to address this impact, but even with implementation of feasible mitigation measures this impact would remain significant and unavoidable.

Transportation

The Transportation Study for the Facebook Campus Project included analysis of four different scenarios:

- Near Term 2015 East Campus Only;
- Near Term 2018 East and West Campuses;
- Cumulative 2025 East Campus Only; and
- Cumulative 2025 East and West Campuses

The analysis studied 34 intersections, ten roadway segments, and nine roadway segments on four Routes of Regional Significance. The analysis found that the Project would result in significant and unavoidable impacts to nine intersections, four roadway segments, and six segments of routes of regional significance in both the near-term and long-term (cumulative) conditions as described below.

Intersections

A total of ten study intersections were identified as having potentially significant impacts, and the intersection of Willow Road and Middlefield can be fully mitigated because it is controlled by the City of Menlo Park. For the remaining nine intersections, the identified mitigation measures would only partially mitigate the impacts or would fully mitigate the impacts if approval is granted by the agency that controls the intersection. As presented in the table on the following page and summarized below, of the ten impacted intersections:

- Impacts to one intersection can be fully mitigated;
- Impacts to four intersections can be fully mitigated with approval of the agency controlling the intersection;
- Impacts to four intersections can be partially mitigated, and
- Impacts to one intersection cannot be mitigated.

As a result of the factors discussed above, including the fact that only one of the impacted intersections is controlled by the City of Menlo Park, impacts at the remaining nine intersections would remain significant and unavoidable.

The following chart provides a more comprehensive picture of the impacted intersections and associated mitigations measures.

Intersection	Scenario of Significance	Jurisdiction	Mitigation Measure	Feasible?	Mitigated?
Marsh Rd. and Bayfront Expy.	Near Term East and West Campuses	Caltrans	Reconfigure the westbound approach from a shared left-through-right lane to a left-through lane and a right-through lane	Yes	Yes – with Caltrans approval
Marsh Rd. and US-101 NB Ramps	Near Term East and West Campuses	Caltrans	Add a northbound right turn lane	Yes	Yes – with Caltrans approval
Marsh Rd. and Middlefield Rd.	Cumulative East and West Campuses	Atherton	Add a second left-turn lane to the southbound approach and widen paving. Re-stripe Marsh to accommodate receiving lane. Fair share contribution for project calculated to be approximately 30.4%	Yes	Partial, due to fair share contribution
Willow Rd. and Bayfront Expy.	Near Term East Campus	Caltrans	Add a third eastbound right-turn lane and a second westbound left-turn lane.	No ¹	Partial
Willow Rd. and Newbridge St.	Near Term East and West Campuses	Caltrans	Add a second eastbound left-turn lane and a third westbound through lane	No ²	Partial
Willow Rd. and Middlefield Rd.	Near Term East Campus	Menlo Park	Restripe northbound through lane to a northbound shared through-right lane	Yes	Yes
University Ave. and Bayfront Expy	Near Term East Campus	Caltrans	Add a fourth southbound through lane	No ³	Partial
University Ave. and Donohoe St.	Cumulative East and West Campuses	Caltrans	Stripe a formal southbound right turn lane and provide southbound right turn overlap phasing	Yes	Yes – with Caltrans approval
Bayfront Expy and Chrysler Dr.	Near Term East Campus	Caltrans	Restripe existing eastbound right turn lane to a shared left-right lane	Yes	Yes – with Caltrans approval
Middlefield Rd. and Lytton Ave.	Near Term East Campus	Palo Alto	Add an additional eastbound left-turn lane	No	No
<ol style="list-style-type: none"> 1. Westbound left-turn lane is not feasible. Eastbound right-turn lane is feasible, but only partially mitigates impact. 2. A second eastbound left turn lane is not feasible. 3. An approximately one-mile portion of the Bay Trail will be constructed on University Avenue to partially mitigate this impact. 					

Roadway Segments

Of the agencies that control roadway segments within the study area, only the Cities of Menlo Park and Palo Alto have guidelines that require the evaluation of roadway segments during the environmental review process. The Menlo Park Transportation

Impact Analysis Guidelines were utilized to evaluate impacts to roadway impacts for segments within the City of Menlo Park. These Guidelines include a set of impact criteria for minor arterial, collector and local streets based on average daily traffic volume (ADT). To determine if there is an impact, the daily increase in traffic volumes associated with the proposal were compared to the City's impact criteria for its respective street type.

Roadway segments within the City of Palo Alto were evaluated using the Traffic Infusion on Residential Environment (TIRE) method. The TIRE method provides a way to qualitatively measure the impacts of a roadway from the traffic added by new developments. This method assigns an index value based on the daily traffic volumes on roadway segments. These index values range from 0.0 to 5.0 with 3.0 or higher values representing a roadway that is "auto-dominated." According to the TIRE method, a traffic volume increase that causes at least a 0.1 increase in the TIRE index would be noticeable to street residents.

Utilizing these two evaluation tools on the ten roadway segments reviewed in the Draft EIR, the analysis found that four roadway segments would experience significant and unavoidable impacts. Impacted roadway segments include the following, all of which are located within the City of Menlo Park:

- Marsh Road between Bay Road and the Railroad tracks;
- Willow Road between Durham Street and Chester Street;
- Willow Road between Nash Avenue and Blackburn Avenue; and
- Middlefield Road between Linfield Drive and Survey Lane.

All of these impacts would begin with the Near Term East Campus Only scenario in 2015 and there are no feasible mitigation measures for these impacts.

Routes of Regional Significance

The San Mateo County Congestion Management Program Land Use Analysis Program guidelines requires that Routes of Regional Significance be evaluated to determine the impacts of added Project generated trips for projects that create more than 100 net peak hour trips. The Route of Regional Significance that are in the project area are State Route (SR) 84 (Bayfront Expressway), SR 109 (University Avenue), SR 114 (Willow Road) and United States Highway 101 (US 101). Nine segments of routes or regional significant were evaluated in the transportation analysis, which determined that the following six segments had significant and unavoidable impacts:

- SR 84 (US 101 to Willow Road);
- SR 84 (Willow Road to University Avenue);
- SR 84 (University Avenue to County Line);
- US 101 (North of Marsh Road);
- US 101 (Willow Road to University Avenue); and
- US 101 (South of University Avenue).

All of these impacts would begin with the Near Term East Campus Only Scenario in 2015 and there are no feasible mitigation measures for these impacts.

Mitigation Measures

Transportation related mitigation measures include the following:

- **Intersection Improvements:** As presented in the table above, ten intersection mitigation measures will be required to address intersection impacts. Since some of these measures are only partial mitigations, and the majority of intersections are not under the jurisdiction of the City of Menlo Park, the intersection mitigations would not reduce the Project's intersection impacts and the impacts remain significant and unavoidable.
- **Transportation Impact Fee (TIF):** Payment of a TIF would be required for the redevelopment of the West Campus. Although payment of a TIF would provide the City with funding to be used towards traffic improvement projects, it would not reduce the impacts to a less than significant level.
- **West Campus Trip Cap:** For the Near Term 2018 East and West Campuses scenario, a West Campus Trip Cap is included as a mitigation measure. Specifically, the trip cap limits both the A.M. and P.M. peak period vehicular trips to 1,100. This mitigation measure would reduce A.M. and P.M. peak period trips, and thus reduce trips at impacted intersections, and involves the imposition of a trip cap on the West Campus comparable to the Peak Period Trip Cap that is part of the Project for the East Campus. A peak period trip cap of 1,100 trips for the West Campus does not, in and of itself, fully mitigate the impacts in either the A.M. or P.M. peak periods for any of the impacted intersections. Because the proposed mitigation would not fully mitigate the impact, it remains significant and unavoidable, unless the impact is fully mitigated through an intersection specific mitigation measure.

Summary of Alternatives Analysis

The Draft EIR analyzed two alternatives including a No Project Alternative and a Reduced Project Alternative. Per the requirements of CEQA, alternatives are required to meet the majority of the Project objectives established by the project sponsor, and substantially lessen or avoid significant and unavoidable impacts. When evaluating which alternatives to consider, the City determined that an 80 percent reduction in vehicular trips would be required to eliminate any of the significant and unavoidable impacts. Since this would not meet any of the basic Project objectives, it was ruled out as infeasible. Reduced Project alternatives of a 50 percent reduction in vehicular trips and 40 percent reduction in vehicular trips, respectively, were also considered. However, since these alternatives resulted in fewer employees, or a minor increase in the number of employees currently permitted under the existing land use entitlements for the East Campus, they were ruled out as infeasible.

Ultimately, the City evaluated the No Project Alternative as required by CEQA and a Reduced Project Alternative that reduced vehicular trips associated with the Project by 25 percent. After completing the alternatives analysis, it was determined that the No Project alternative would not achieve even the most basic Project objectives including providing a centralized headquarters and an integrated highly connected campus. The Reduced Project Alternative, however, would meet several of the Project objectives. However, since the Reduced Project Alternative would not accommodate the Project sponsor's anticipated employee growth, it would not be feasible for the Project sponsor to establish its permanent headquarters at the Project site since such permanence relies entirely on housing its future workforce.

REGULAR BUSINESS ITEM E-1: FISCAL IMPACT ANALYSIS (FIA)

The City's independent economic consultant, Bay Area Economics (BAE), has prepared a Draft Fiscal Impact Analysis (FIA), projecting the potential net increase in revenues and expenditures, and resulting net fiscal impact directly associated with development of the proposed Project. The Draft FIA also explores a number of related topics, including indirect revenues/costs from potential induced housing demand, as well as one-time/non-recurring revenues (such as impact fees), and potential additional opportunities for fiscal benefits. The Draft FIA evaluates Project related impact to the City (both the General Fund and Community Development Agency (CDA)) and the following affected Special Districts:

- Menlo Park Fire Protection District;
- Menlo Park Municipal Water District;
- West Bay Sanitary District;
- Elementary and High School Districts;
- San Mateo County Office of Education Special District;
- San Mateo County Community College District; and
- Midpeninsula Regional Open Space District.

The Draft FIA was released with the Draft EIR on December 8, 2011, and is available for public review at City offices, the Library and on the City maintained Project web page.

General Fund Impact of Proposed Project

The core of the Draft FIA is the estimation of annual General Fund revenues and costs associated with the Project. The major annually occurring revenue sources include new property taxes, sales taxes, and transient occupancy tax (TOT, also known as the room or lodging tax). The Draft FIA analyzes two scenarios when evaluating the potential General Fund revenues from the Project, which correspond to alternative assumptions for sales tax and TOT generation. Based upon these two scenarios, the analysis determined that the Project would generate annual revenues to the General Fund between \$567,300 and \$660,300, with the actual amount likely falling within the range defined by these figures. Ultimately, the actual amount would be dependent upon the

extent to which Facebook employees, prospective employees, and visitors make taxable retail purchases in Menlo Park and utilize Menlo Park hotels.

General fund expenditures generated by the Project include the additional Staff and resources needs generated by the Project. In total, implementation of the Project is anticipated to result in \$492,200 of new General Fund expenditures. Utilizing both scenarios for annually occurring General Fund revenues and the anticipated General Fund expenditures generated by the Project, the Project is projected to result in an annual net positive fiscal impact (surplus) ranging from \$75,100 to \$168,100

Community Development Agency (CDA) Analysis

The CDA serves as the City's Redevelopment Area and oversees the Las Pulgas Community Development Project Area. The Project Area was created in 1981 and the East Campus component of the Facebook Campus Project is located within the Project Area. Based upon the anticipated increase in assessed value for the East Campus, there would be \$735,000 in new tax increment generated each year. This additional tax increment would annually allow for \$146,000 in set asides for affordable housing, \$4,600 to the City's General Fund and \$309,000 for redevelopment project area plan improvements.

On December 29, 2011, subsequent to the publication of the Draft FIA, the California Supreme Court ruled that the state has the right to abolish local redevelopment agencies, but cannot compel them to spend more property tax dollars on local services as a requirement to stay in operation. Barring any legislative intervention, all redevelopment agencies, including the City of Menlo Park's CDA will be dissolved sometime in 2012. The implications of the Supreme Court's actions will be analyzed in the Final FIA.

Special Districts

The Draft FIA also looks at the ongoing impact on special districts, in particular the Menlo Park Fire Protection District (MPFPD), which is projected to receive total annual revenues (primarily from property tax) of approximately \$300,357 from the proposed Project. On the cost side, the Fire District is projected to have annual expenditures of approximately \$200,000 per year to fund the fully loaded cost of one new fire safety personnel, which will be required as a result of the Project. Based upon the anticipated revenues and costs associated with the Project, it is considered to have a net positive fiscal impact to the MPFPD of \$100,357 annually. However, the District has indicated that the purchase of an aerial ladder truck for the fire station most proximate to the Project site would be necessary to serve the West Campus. Conversely, guidelines issued by the Insurance Service Organization (ISO) suggest that the purchase of additional equipment to service the Project site is not necessary as a result of the presence of an existing a ladder truck within acceptable distance of the Project site.

The remainder of the special district analysis (such as for school districts and water/sanitary districts) project positive net impacts, or no net fiscal impact resulting from implementation of the Project.

Indirect Impacts: Induced Housing Demand

The Draft FIA discusses the potential indirect impact of induced housing demand, using the projections included in the Housing Needs Analysis prepared for the City by Keyser Marston and Associates for the Project (included as an appendix to the Draft EIR), which states that the Project could result in a 254-unit increase in residential units in the City. This project equates to approximately 666 new residents in the City based upon an average household size of 2.62 (254 units x 2.62 persons per unit = 666). The Draft FIA projects that if these units were actually developed and occupied, the revenues/expenditures would result in an annual net General Fund deficit of approximately \$20,200. The induced housing demand of the Project would result in divergent fiscal outcomes for each of the three school districts. The Menlo Park City Elementary School District is projected to have a net negative fiscal impact of \$269,600 annually, the Ravenswood Elementary School District is projected to have no fiscal impact, and the Sequoia Union High School District is projected to have a net positive fiscal impact of \$119,600 annually.

Alternative Business-to-Business Sales Tax Analysis

The Alternative Business-to-Business Sales Tax Analysis considers the potential revenues to the City based on a different types of business(es) moving into the Project site. This analysis was completed due to the fact that the previous occupant of the East Campus (Sun Microsystems/Oracle) sold hardware and software and generated substantial business-to-business sales tax revenues; whereas, Facebook's business does not currently generate business-to-business sales tax revenue. The analysis of different types of business(es) occupying the Project site utilized two alternative calculation methods but reached similar conclusions on the range of potential sales tax revenues that the City would receive. Based upon this methodology, the analysis determined that the range of business-to-business sales tax revenue that could be generated from a typical Silicon Valley mix of companies at the Project site would range from \$431,000 per year to \$827,000 per year.

STUDY SESSION ITEM F-1: REVIEW OF FACEBOOK CAMPUS PROJECT PROPOSAL

As discussed previously in the report, the Facebook Campus Project is a phased project, inclusive of two components, the East Campus and the West Campus. Though both phases of the Project are evaluated in the Draft EIR, the project sponsor has only submitted an application for land use entitlements for the East Campus component of the Project. As such, this discussion focuses on the East Campus component of the Project.

East Campus Development Proposal

The East Campus includes approximately 56.9 acres and was previously occupied by Sun Microsystems/Oracle. The East Campus is currently developed with nine buildings, which contain approximately 1,035,840 square feet. The existing entitlements for the site allow up to 3,600 employees to occupy the site, and Facebook currently has approximately 2,000 employees at the site. The project sponsor has completed tenant improvements at the site to convert the hardware-intensive laboratory spaces and individual hard-wall offices to a more open, shared workspace characteristic of the Facebook work environment, which is intended to foster innovation, teamwork, and creativity.

The project sponsor is currently seeking amendment of the existing CDP applicable to the site. Details regarding the CDP amendment and associated development agreement are discussed below.

Conditional Development Permit Amendment

As part of the proposed Project, the project sponsor seeks to convert the existing employee cap into a vehicular trip cap. The trip cap includes a maximum of 2,600 trips during the AM Peak Period from 7:00 a.m. to 9:00 a.m. and the PM Peak Period from 4:00 p.m. to 6:00 p.m. and a maximum of 15,000 daily trips. The trip cap would allow approximately 6,600 employees to occupy the East Campus. The number of vehicular trips would be monitored continuously through automated means (e.g., imbedded loop detectors in the pavement in each travel lane or video detection) approved by the City. All vehicular entrances to the East Campus would be included in the monitoring. Facebook would 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 A.M. Peak Period Trip Cap, the P.M. Peak Period Trip Cap and the Daily Trip Cap). The City would enforce compliance with the Trip Cap, and any lack of compliance with the trip cap would result in monetary fines. The amount of these fines would be determined during the Development Agreement process.

Specific parameters regarding the trip cap can be found in the Trip Cap Monitoring and Enforcement Policy, which is included as Appendix 3.5-F of the Draft EIR and is included as Attachment C to this report for ease of reference. This document touches on the following issue areas:

- Definitions – explanation of terminology utilized;
- Trip Cap – definition of the East Campus trip cap, inclusive of the designation of AM and PM peak hour trip caps and a daily vehicular trip cap;
- Monitoring – discussion regarding how the trip cap would be monitored; and
- Enforcement – discussion regarding how the trip cap would be enforced.

Key components of the proposed Project that would assist the project sponsor in achieving compliance with the trip cap include a Transportation Demand Management

Program and enhanced bicycle and pedestrian circulation on site and connecting to the site. These Project components are discussed in more detail below.

Transportation Demand Management (TDM) Program

The TDM Program, which would be implemented as part of the Project, would reduce the number of vehicle trips to and from the East Campus. The TDM Program is designed to provide alternatives to single-occupancy vehicle travel. The proposed TDM Program would include, but would not be limited to the following:

- TDM Program coordinator;
- Commute assistance center;
- New-hire transportation orientation packet;
- On-site amenities to prevent the need for mid-day trips, including but not limited to food service, exercise areas, and banking services;
- Shuttle service (both long-distance and to/from Caltrain stations);
- Vanpool program;
- Carpool matching assistance through ZimRide, an online carpooling and ridesharing service that focuses on college communities and corporate campuses;
- Preferential carpool and vanpool parking;
- Guaranteed ride home program;
- Subsidized public transit passes;
- Subsidies for employees who walk or bike to work;
- Bicycle parking (both short-term racks and long-term lockers or storage facilities);
- Bicycle-share program;
- Showers and changing rooms; and
- Alternative and flexible work schedules.

This program is designed to provide a variety of options to help Facebook and its employees reduce vehicular trips and comply with the vehicular trip cap discussed above.

Bicycle and Pedestrian Circulation

There are existing bicycle facilities on several major routes that access the East Campus. With occupancy of the East Campus, it is expected that bicycle demand on the roadways and paths leading to the campus will increase as employees choose to bicycle commute to the campus. The Project Sponsor has proposed to incorporate bicycle improvements as part of the Project, to encourage employee and visitor ridership to the campus, and to improve the citywide bicycle network. These improvements, which are consistent with the City's Comprehensive Bicycle Development Plan, are described below.

The existing undercrossing of Bayfront Expressway at Willow Road would be improved to provide a connection from Menlo Park to the Bay Trail as part of the Project. This

connection would provide bicyclists and pedestrians a grade-separated route to cross Bayfront Expressway, and would serve as an extension of the Bay Trail. The undercrossing would be opened during initial occupancy of the East Campus with minimal improvements, and if and when entitlements for the West Campus are granted, would be further enhanced. These improvements would provide pedestrian and bicycle access, as well as a people-mover system to transport employees and visitors between the East Campus and West Campus.

Additionally, pathways would be constructed to connect from the Willow Road frontage (from the existing sidewalk that ends between Hamilton Avenue and the railroad crossing) to the undercrossing and from the undercrossing to the Bay Conservation and Development Commission (BCDC) Shoreline Trail (which borders the East Campus), to link to the Bay Trail. These improvements are both identified as long-term needs in the City's Bike Plan. When constructed, they will reduce bicycle and pedestrian exposure when crossing the existing at-grade signalized intersection at Willow Road and Bayfront Expressway, and provide improved access and connectivity to the Bay Trail. Although not part of the Project, the Project Sponsor is also working with the City and Caltrans to restripe the existing bicycle lanes on Willow Road between US 101 and Bayfront Expressway to immediately improve bicycle access to the East Campus.

Development Agreement

The project sponsor is requesting a legally binding Development Agreement in concert with the requested CDP Amendment. The Development Agreement would define the long-term land use intentions, specific terms and conditions for the development, and public benefits that would apply, should the East Campus component of the Project be approved. Under State law (California Government Code Sections 6584-65869.5), development agreements enable the City to grant a longer-term approval in exchange for demonstrable public benefits.

The City Council adopted Resolution No. 4159 in January 1990, establishing the procedures and requirements for the consideration of Development Agreements. The resolution contains specific provisions regarding the form of applications for development agreements, minimum requirements for public notification and review, standards for review, findings and decisions, amendments and cancellation of agreements by mutual consent, recordation of the agreements, periodic review, and modification or termination of an agreement. The City has previously entered into two Development Agreements, most recently with the Bohannon Development Company for the Menlo Gateway Project, and prior to that with Sun Microsystems for the subject Project site. The obligations under the Sun Microsystems Development Agreement have since been fulfilled. Resolution No. 4159, the Bohannon Development Company Development Agreement, and the Sun Microsystems Development Agreement are available for review on the City's webs site, and upon request at City offices.

Similar to each of the Projects discussed above, the Council appointed a Development Agreement subcommittee on October 18, 2011, inclusive of Council members Keith and Cline, to provide assistance and general guidance to the negotiating team utilizing parameters established by the full Council at its February 14, 2012 meeting. The core

City negotiating team includes the City Manager, City Attorney, Development Services Manager and Public Works Director. The two-member Council Subcommittee will meet with the negotiating team on an as needed basis.

At the conclusion of negotiation, the negotiating team will present a term sheet for consideration by the full Council. Prior to finalization of the Development Agreement, the Planning Commission will have an opportunity to make a recommendation to the City Council.

Public Benefit

As noted earlier, the Development Agreement provides a mechanism for the City to grant a longer-term approval in exchange for demonstrable public benefits. In contrast to standard conditions of approval (such as payment of impact fees) or mitigation measures required through the EIR process (such as construction of intersection improvements), public benefits that are defined through the Development Agreement do not have to be directly correlated to a Project's impacts or follow a standard formula. For the purposes of this discussion, public benefit is typically viewed as a distinct topic than those inherent attributes of the Project that may be considered positive, such as the Projected sales tax revenue, although the characteristics of the overall Project should be understood and considered as part of the detailed discussion of public benefit options. The concept of public benefit is linked with the overall development proposal, in particular the size and scope of the Project.

One purpose of the January 9th Planning Commission meeting is to provide an opportunity for the public and Commission to identify potential public benefit ideas for the Council to consider when it provides parameters for negotiating the Development Agreement. Staff will provide the Commission's public benefit recommendations to the City Council during the study session to discuss the Project on January 31st. The Council will then conduct the final review and prioritization of the public benefit ideas during their meeting on February 14th. These recommendations will be utilized during the Development Agreement negotiation phase. The establishment of public benefit recommendations will be used to guide the negotiation, but it should be understood that some or many of the ideas may not be achievable.

East Palo Alto Housing Affordability Analysis

In response to the release of the Notice of Preparation for the Facebook Campus Project on April 21, 2011, the City of East Palo Alto submitted a comment letter voicing concerns about the potential impact of the Facebook Campus Project on housing affordability in the City of East Palo Alto. Since housing affordability is a socio-economic issue not under the purview of CEQA, analysis related to this comment was not included in the Draft EIR. However, City staff commissioned Keyser Marston and Associates to prepare a Housing Affordability Analysis for the City of East Palo Alto to address the expressed concerns. This report, entitled *Menlo Park Facebook Campus Project: Evaluation of Potential Impacts to Housing Conditions in East Palo Alto* was

released for public review on December 21, 2011, and is available for review on the City's web site, at City Hall and at the City's Library.

The key findings of this analysis are as follows:

- The Project is estimated to generate housing demand in East Palo Alto in the range from 16 to 26 additional units per year over the next six years. Total housing demand to East Palo Alto upon full Project occupancy is estimated to be in the range from 100 to 160 units. This estimate is based on the conservative assumption that three to five percent of Facebook workers will seek housing in East Palo Alto, which is a much higher percentage than the current 0.2 percent.
- Demand from Facebook workers is likely to be met through a combination of existing units and new construction, including the 835 new units in the proposed Ravenswood/4 Corners TOD Specific Plan Area. However, the precise allocation between existing units and new construction is not possible to predict for many reasons. In addition, there are uncertainties as to whether the proposed units will be built and the timing for completion may or may not match with development and occupancy of the Project.
- If none of the additional housing demand is absorbed by new construction, then up to 100 to 160 existing households in East Palo Alto could be displaced as Facebook workers compete with others, including existing residents looking to relocate within East Palo Alto. It is estimated that during the next six years, Facebook workers could represent a demand for about two percent of the units that come available through turnover.
- No significant impact to existing conditions in East Palo Alto of overspending for housing and overcrowding is anticipated. Facebook workers are anticipated to represent a relatively nominal share of the overall housing market in East Palo Alto; therefore, workers are not expected to have sufficient influence on prices and rents to materially affect existing conditions.

CORRESPONDENCE

Since the release of the Draft EIR and Draft FIA on December 8, 2011, the City has received correspondence from the City of Palo Alto and the Loma Prieta Chapter of the Sierra Club requesting extension of the comment period for the Draft EIR. The City Council will be reviewing this request at its January 10th meeting.

RECOMMENDATION

Staff recommends that the Planning Commission follow the meeting procedure for the three agendas outlined on pages 4 and 5 of this report

Rachel Grossman
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Report Author

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Development Services Manager

PUBLIC NOTICE

Public notification consisted of publishing a legal notice in the local newspaper and notification by mail of all property owners and occupants within a quarter-mile (1,320 feet) radius of the subject property. The newspaper notice was published on December 1, 2011. The mailed notice was supplemented by a citywide postcard mailing, which provided information about the Project proposal and associated documents, as well as information about the community outreach meeting in December, and the Planning Commission and City Council meetings in January and February to discuss the Project.

In addition, the City has prepared a Project page for the proposal, which is available at the following address: http://www.menlopark.org/projects/comdev_fb.htm. This page provides up-to-date information about the Project, allowing interested parties to stay informed of its progress. The page allows users to sign up for automatic email bulletins, notifying them when content is updated or meetings are scheduled. Previous staff reports and other related documents are available for review on the Project page.

ATTACHMENTS

- A. Location Map
- B. Project Plans (select sheets – complete plans available for review at the City offices or on the City web site)
- C. Trip Cap Monitoring and Enforcement Policy

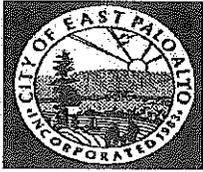
Note: Attached are reduced versions of maps and diagrams submitted by the project sponsors. The accuracy of the information in these drawings is the responsibility of the project sponsors, and verification of the accuracy by City Staff is not always possible. The original full-scale maps, drawings and exhibits are available for public viewing at the Community Development Department.

AVAILABLE FOR REVIEW AT CITY OFFICES AND CITY WEBSITE

Draft Environmental Impact Report prepared by Atkins, dated December 2011
Draft Fiscal Impact Analysis prepared by BAE, dated December 2011

V:\STAFFRPT\PC\2012\010912 - Facebook Campus Project.doc

ATTACHMENT B



CITY OF EAST PALO ALTO
Community Development Department— Planning Division
1960 Tate Street • East Palo Alto, CA 94303
Tel: (650) 853-3185 • Fax: (650) 853-3179

May 26, 2011

Justin Murphy, Development Services Manager
City of Menlo Park
Community Development Department, Planning Division
701 Laurel Street
Menlo Park, CA 94025

Re: Notice of Preparation for Facebook / 1601 Willow Road (10-19 Network Circle) East Campus and 312-314 Constitution Drive (West Campus)

Dear Mr. Justin Murphy:

The City of East Palo Alto (EPA) Planning Division and Redevelopment Agency have reviewed the Notice of Preparation (NOP) for the Facebook project. The City has identified housing and traffic as areas where there would be the potential for significant adverse impacts to the environment.

The Planning Division's comments regarding those issues are identified below.

Housing Affordability

It is anticipated that the spillover effect of Facebook employees who choose to purchase and rent housing in East Palo Alto could be significant. Based on a review of the housing and jobs data outlined below and memoranda provided by regional agencies, the Planning Division anticipates that a percentage of the local employees who choose to reside close to work or cannot afford housing in Menlo Park will displace EPA residents.

Without a better understanding of the earnings associated with Facebook employees, the Planning Division cannot accurately forecast the outcome. Several scenarios are identified below, which identify areas of potential concern for further investigation by the environmental consultants and/or city. A review of the U.S. Bureau of Labor Statistic's economic data suggests that affordable housing impacts might be lessened if Facebook employees are classified in the Professional, Scientific, and Technical Services sector, since this classification of employee earns an estimated annual income of \$150,000. In this case, a larger percentage of Facebook employees are assumed to have access to the local housing market in Menlo Park. If however most of the employees are classified in the Information Sector, which has estimated annualized earnings in the fourth quarter of 2010 of \$60,000, the pressure on housing in the City of East Palo Alto could be substantial, and could have significant environmental and social policy outcomes, as EPA is one of the last places in the mid-peninsula with housing within the range which low income households can afford. Local zoning and housing regulations were crafted in response to this unique situation. Recent data provided by the Equity Working Group for the

Metropolitan Transportation Commission (MTC) identifies declining affordability in the Menlo Park region near where Facebook is proposing to locate. This suggests that as housing becomes less affordable in Menlo Park, more individuals who would have purchased or rented there will be forced to reside or buy in the City of East Palo Alto (*See Attachment 1 – May 4, 2011 entitled – Identifying Communities of Concern and Other Relevant Equity Populations*).

To ensure continued affordability for as long as a city resident maintains his or her residence, the EPA City Council proposed a measure for the ballot, and the local residents overwhelmingly voted for a Rent Stabilization and Just Cause Eviction Ordinance (RSO). In accordance with the Costa Hawkins Act, residential tenancies which expire are reset to the market rate, which affects a significant share of the local housing. In some communities, it is anticipated that more than 50% of housing units reset to the market rate within 7 years. This is important for two reasons:

- First, the average household price, while lower than the surrounding communities of Menlo Park and Palo Alto, is still too high for many of the households within the City to afford without spending more than 30% of their income on housing. As identified in the EPA Housing Element adopted June 15, 2011, 79% of EPA residents are low income.
- Second, since many of the city's dwelling units are located in close proximity to the Facebook campus, and are exempt from the RSO, as they are less than four units, it is anticipated that a percentage of Facebook employees will seek housing in the local market, which therefore reduces the local supply and affordability of housing.

Finding 1 - Based on the foregoing, it is anticipated that a percentage of Facebook employees are likely to displace residents of East Palo Alto, and displacement is likely to result in increased residential densities above that which is permitted by the Health and Safety Code

Traffic and Greenhouse Gases

While those Facebook employees who reside near campus could commute using non-motorized means and thereby have a positive impact on greenhouse gases, those employees will need programs to encourage this type of activity and local infrastructure improvements to allow for safe passageways. Unless programs are encouraged and local infrastructure improvements are made, there is greater potential for this group of workers to drive through the city's side streets to access the campus, especially when the arterials are congested, as is frequently the case during the AM and PM peak hour. The additional traffic and the lack of adequate infrastructure will decrease the safety of non-motorized transportation through these streets.

Finding 2 - If the proposed expansion is unmitigated, the project will likely have detrimental impacts on the local community through increased greenhouse gases, and reduced non motorized mobility without concomitant infrastructure improvements, especially for those households traveling to the Facebook Campus traveling from the south.

The Redevelopment Agency's four comments are below.

First, the City of East Palo Alto and the City of Menlo Park will need to coordinate efforts to ensure that the traffic counts from the City of East Palo Alto's Ravenswood/4 Corners Transit Oriented Specific Plan (Specific Plan) and Program EIR are included in the Facebook project's

cumulative traffic scenario. The Specific Plan Area is generally bounded at the west by University Avenue; at the north by the Union Pacific rail line, where future passenger rail service is planned; at the east by the Ravenswood Open Space Preserve and Palo Alto Baylands along the San Francisco Bay; and at the south by Weeks Street. The net development estimates are shown in Table 1,

TABLE 1 NET Development Estimates for Specific Plan Area

Land Use	Estimated Net Development
Single-Family Residential	19 dwelling units
Multi-Family Residential	816 dwelling units
Office	1,268,500 square feet
Retail	112,400 square feet
R&D/Industrial	351,820 square feet
Civic Uses*	61,000 square feet
Parks and Trails	30 acres

* Potential civic uses include a school, a community center, an expanded library, health services, and a recreation center.

Detailed information is available at the Specific Plan website at: <http://www.ci.east-palo-alto.ca.us/economicdev/dumbarton.html> The Draft Program EIR should be available in August/September 2011.

Second, the Alternatives Analysis Memo for the Specific Plan identifies 84% of the traffic on University Avenue as “cut through traffic” that neither originates nor ends in East Palo Alto. To adequately analyze the potential impact of the Facebook Campus Project, please add the following intersections to the TIA.

1. University Avenue/Hwy 101 NB on-off ramp.
2. University Avenue/Hwy 101 SB on-off ramp.
3. University Avenue and Bell Street
4. University Avenue and Purdue Ave.

Third, please provide direction as to the need or desire of Menlo Park or Facebook to accommodate a station for the Dumbarton Rail Project in the vicinity of Willow Ave. Previous Dumbarton Rail Corridor planning documents identified a station near Willow Ave.

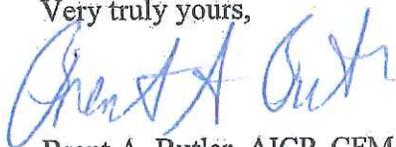
Fourth, please include the following individuals in all notices related to this project.

Brent Butler
Planning Manager
East Palo Alto Planning Dept.
1960 Tate Street
East Palo Alto, CA 94303
bbutler@cityofepa.org

Sean Charpentier
RDA Project Coordinator II
East Palo Alto Redevelopment Agency
1960 Tate Street
East Palo Alto, CA 94303
scharpentier@cityofepa.org

Thank you for this opportunity to comment. We look forward to working collaboratively with the City of Menlo Park.

Very truly yours,



Brent A. Butler, AICP, CFM
Planning Manager
City of East Palo Alto

Attachment 1: May 4, 2011 entitled – Identifying Communities of Concern and Other Relevant Equity Populations).

Attachment 1: May 4, 2011 entitled – Identifying Communities of Concern and Other Relevant Equity Populations).

Attachment 1: May 4, 2011 entitled – Identifying Communities of Concern and Other Relevant Equity Populations).

One BayArea

To: Equity Working Group

From: Jennifer Yeamans

Date: May 4, 2011

Re: Identifying Communities of Concern and Other Relevant Equity Populations

Creating a Framework for Alternative Scenarios Analysis

Building on the discussion of elevating regional equity priorities at our April meeting, the next major task is defining a framework for equity analysis for the Alternative Scenarios. A typical equity analysis framework has two key components: one component defines the specific populations of concern to be analyzed, and the other defines a set of performance measures that will provide quantitative data with which different planning scenarios can be compared to each other, and different population subgroups can be compared to each other (such as "low-income" vs. "not low-income").

There are two related goals within this task of developing the framework that we will be exploring over the next several months:

- (1) to understand how the equity analysis framework will satisfy federal guidance the U.S. Department of Transportation issues metropolitan planning organizations like MTC regarding civil rights and environmental justice in long-range planning; and
- (2) to explore and identify which combinations of possible population definitions and possible measures provide the best "fit" to inform the priority equity issues with quantitative analysis.

Overview of Populations and Communities for Consideration

Attachment A lists a summary of potential populations that may be considered for analysis. The list is broken into two groups, based on the methodological approach to analyzing the populations. Population groups that MTC must include to satisfy federal guidance are noted in boldface.

There are two main differences to note between the "population-based" and "geographic-based" definitions. The first difference is in how the regional population is broken out for analysis: the population-based approach captures *all persons* in a given population subset *wherever they may live* in the region; the geographic-based approach, by contrast, is a spatial definition, where geographic subregions are defined based on whether the populations *within those subregions exceed a given threshold* for a certain population of concern.

The second difference reflects how forecasting assumptions are applied to the target population: the population-based definition reflects ABAG population and economic forecasts for the planning horizon year, while the geographic-based definitions are not forecast spatially and therefore must be analyzed based solely on the *current location* of these populations.

MTC's current Community of Concern definition, for example, is a geographic-based definition. By contrast, the low-income population used in the Initial Vision Scenario equity analysis was a population-based definition that looked at all low-income households throughout the region.

(over)

Reviewing Low-Income and Minority Communities of Concern

MTC's low-income and minority Communities of Concern, used in the past two RTP Equity Analyses, were defined based on 2000 Census data, and represent travel analysis zones (similar to census tracts) where more than 70 percent of the population is a member of a minority group, or more than 30 percent of the population is below 200 percent of the federal poverty level.

More up-to-date socioeconomic data is now available from the Census Bureau for these fine-grained geographies, providing tract-level averages for the period 2005-09 (the Census Bureau uses this five-year timeframe to obtain an adequate sampling rate for these smaller geographies) for race/ethnicity and income level, and for 2010 for race/ethnicity only. At your May meeting, staff will present maps showing updated locations of the region's minority and low-income population concentrations relative to 2000 data (see attached). Staff requests you consider the following in providing feedback on characterizing low-income and minority populations for the equity analysis:

1. Should the analysis of low-income and minority populations (a) employ the same 70% minority/30% low-income thresholds for the 2005-09 data; (b) employ a higher threshold such as 75% minority/35% low-income for the 2005-09; or (c) use something different altogether?
2. Is it preferable to use race/ethnicity and income data from the same data set representing the same "universe," or is it preferable to use the most up-to-date data wherever possible, even if they are from different data sets and represent different "universes"? Example: more recent data is available from the 2010 Census for race/ethnicity at the tract level, while 2005-09 is the most recent data available for income at that level.

Next Steps and Timeline

Building on discussions of relevant populations and communities for analysis, staff will bring an initial framework of proposed equity measures matched with relevant populations of concern to your June meeting for discussion and feedback. This will include a summary of comments and input received at earlier meetings that was flagged for follow-up in the Alternative Scenarios analysis work. While discussions of development of other, off-model analyses will be ongoing throughout the development of the Alternative Scenarios, the model-based framework will need to be in place by July in to meet the timeframe needed to carry out technical analysis of the Alternative Scenarios. To meet this July timeframe, staff proposes the following schedule over the next three meetings:

<u>Meeting</u>	<u>Goal</u>
May	<ul style="list-style-type: none">• Review equity-related populations and communities
June	<ul style="list-style-type: none">• Review and provide input on staff proposal for framework matching populations with relevant model-based equity measures• Identify critical off-model issue(s) for analysis
July	<ul style="list-style-type: none">• Finalize model-based framework, proceed with technical analysis of Alternative Scenarios• Initial report back on possible off-model analysis (continues to August)

Level of Analysis	Potential Population/ Community Definitions	Data Source
<p>Population-based "disaggregate" analysis; accounts for every member of the population of concern at the individual or household level, regardless of location. Future-year forecasts are generally based on ABAG's demographic and economic projections for these populations.</p>	<p>Low-income status (by income quartiles; low-income = appx. \$35,000/yr. or below) Senior (e.g. over 65) Youth/young adults (e.g. 5-20) Auto availability (zero-vehicle households, households with fewer autos than workers) Specific family characteristics (e.g. low-income households with children, seniors living alone)</p>	<p>ABAG ABAG ABAG MTC estimates MTC travel model population synthesizer</p>
<p>Geographic-based "aggregate" analysis; accounts for all members of a particular geographic area (i.e. census tract/travel analysis zone) identified as above a certain threshold for a population of concern. These characteristics are not forecast, so future-year analyses must assume these population concentrations remain located where they are today.</p>	<p>Minority status (based on race/ethnicity) Low-income status (based on 200% of federal poverty level) MTC-defined "community of concern" (population greater than 70% minority or 30% low-income) Limited English Proficiency (people who do not speak English well or at all) People with disabilities Other socioeconomic characteristics derived from Census Bureau data (e.g. educational attainment, employment status, renter vs. owner status) Other community definitions based on current-year conditions, such as highlighted in other agency or outside reports (e.g. overburdened renters, below-average transportation availability)</p>	<p>Census 2010 American Community Survey (ACS) 2005-09 ACS 2005-09 Census 2000 (current definition) ACS 2005-09 (to update) ACS 2005-09 Census 2000. ACS 2005-09 Varies</p>

Bolded indicate populations protected under Title VI and federal Environmental Justice regulations within MTC's long-range planning context.

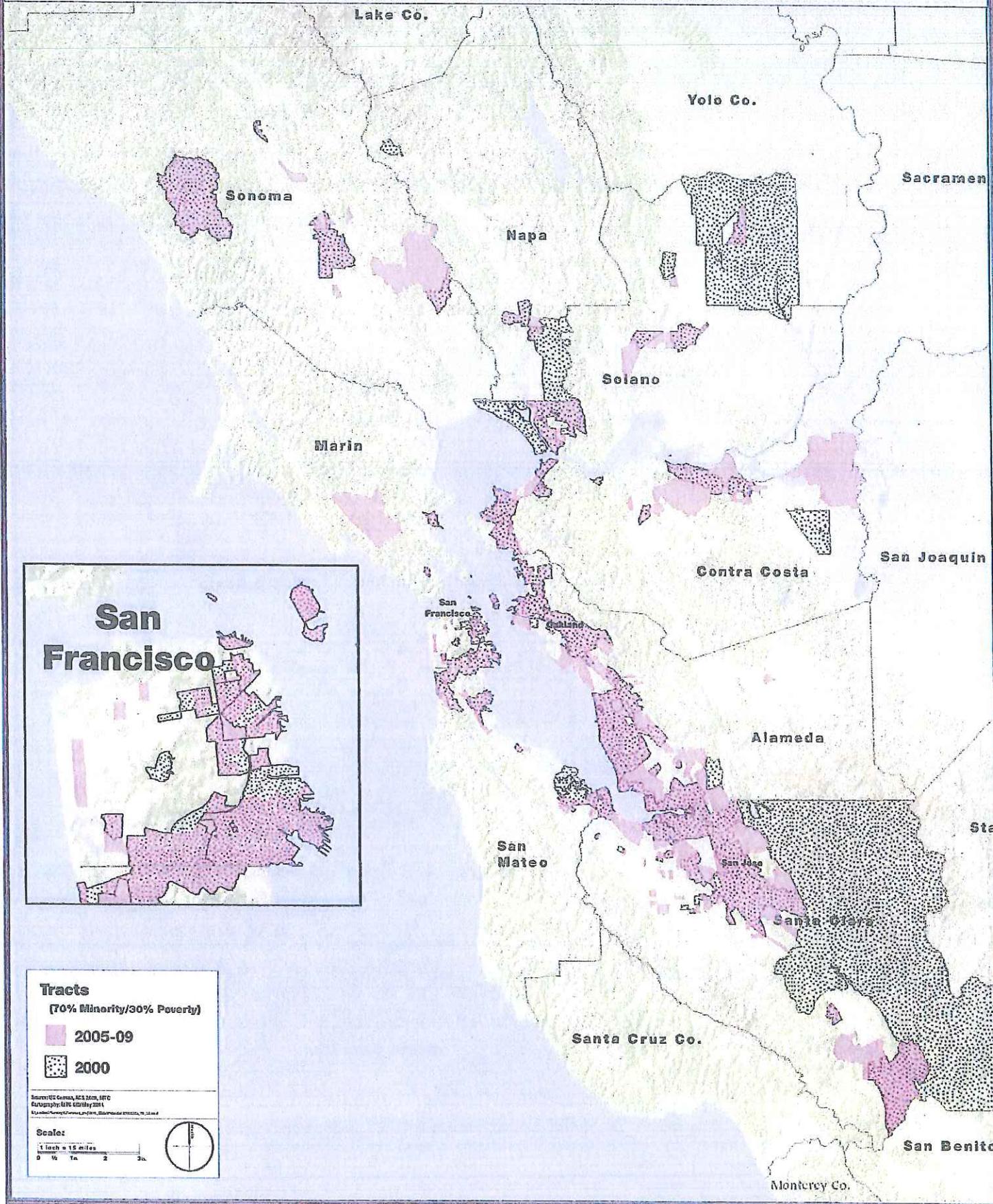
* denotes definition used in *Transportation 2035 Equity Analysis*

70% Minority and/or 30% Low Income

Research and Demographic Unit

DRAFT

Geographic Information Systems Unit



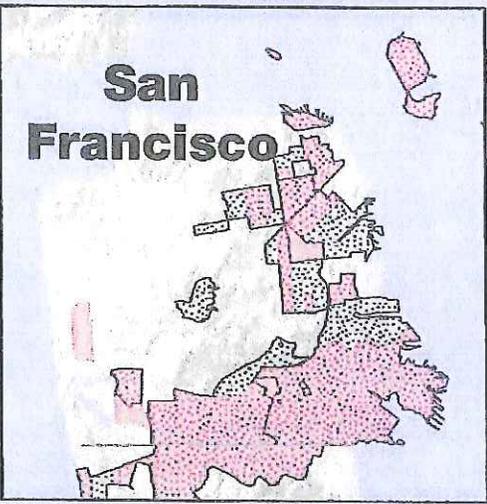
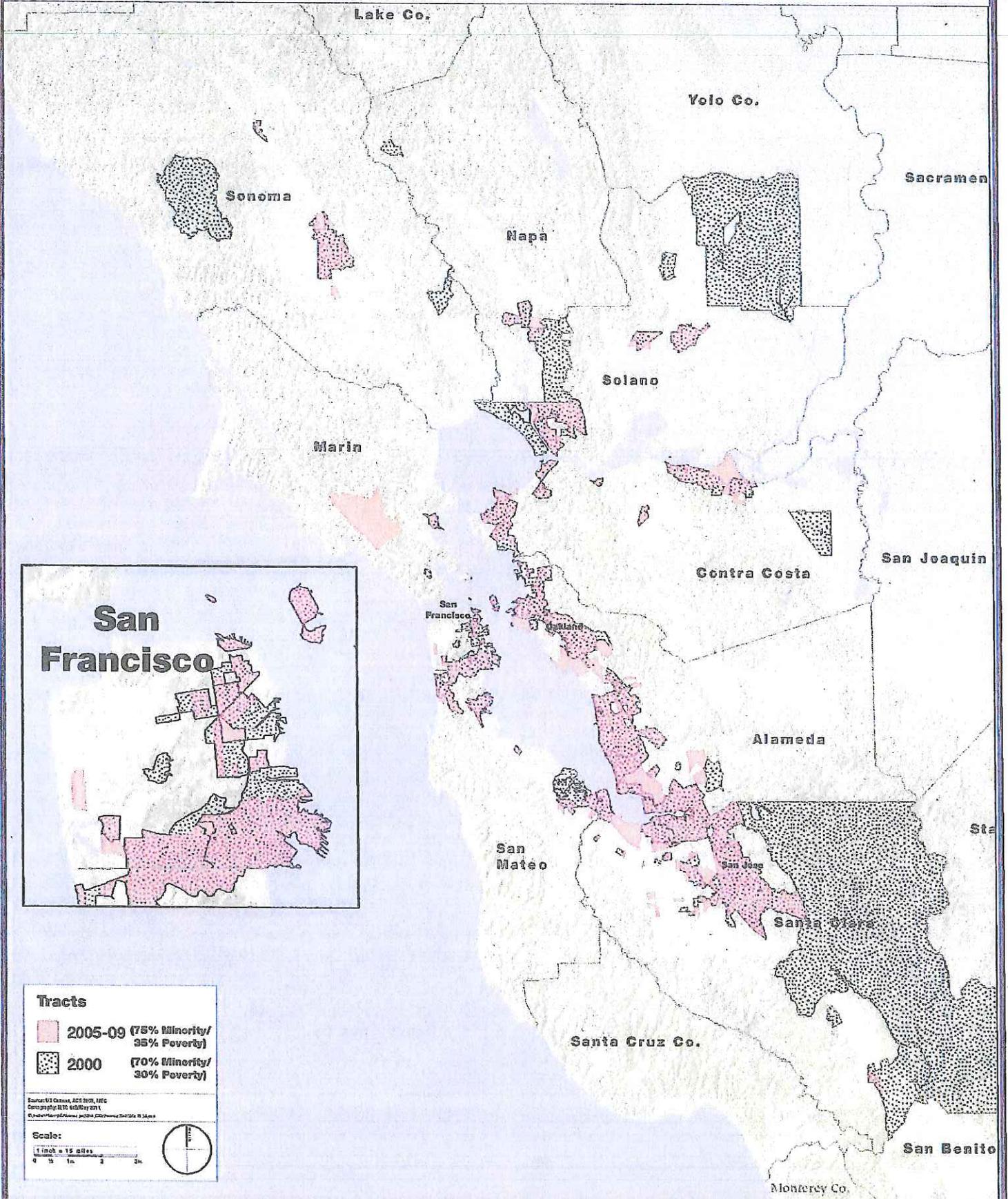
75% Minority and/or 35% Low Income

M Metropolitan Transportation Commission
 Planning, Financing and Coordinating
 Transportation for the nine-county
 San Francisco Bay Area

Research and Demographic Unit

DRAFT

Geographic Information Systems Unit



Tracts

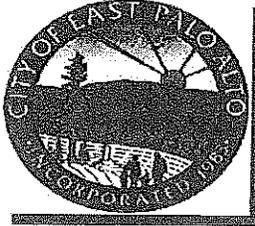
	2005-09 (75% Minority/ 35% Poverty)
	2000 (70% Minority/ 30% Poverty)

Source: US Census, ACS 2005, HHS
 Copyright: MTD 6/10/09 2/11

Scale:
 1 inch = 15 miles
 0 15 30



ATTACHMENT C



Office of the City Council

December 22, 2011

Mayor Kirsten Keith and City Council
701 Laurel Street
Menlo Park, CA 94025

e-mail to city.council@menlopark.org

Re: Facebook Draft EIR Comment Period

Dear Mayor Keith and City Council Members:

I write on behalf of the residents, as well as the entity, of the City of East Palo Alto with regard to the Facebook Draft EIR. I respectfully request an extension to the official comment period in the Draft EIR to February 6, 2012.

The Draft EIR was released on Thursday, December 8, 2011, and the current schedule calls for comments to be submitted no later than 5:30 pm on January 23, 2012. This is a total of 47 days, a mere 2 days more than the statutory minimum (solely because day 45 falls on a Saturday), and far less than is typical for a project of the magnitude involved and a base document of over 700 pages, with appendices in excess of 2600 pages. A 60 day review period would be much more appropriate and in keeping with the spirit of the law, as well as common practice on significant projects.

When Facebook representatives and Menlo Park staff members made a presentation to East Palo Alto on December 13, which was very much appreciated, it was shortly after the document was released. At that time, I requested from your staff an extended comment period, which was declined. I realize staff may not have such authority, but clearly the City Council is in a position to grant this modest request.

East Palo Alto has been concerned about the impact the Facebook project will have on housing demand and supply, as noted in our letter related to the Notice of Preparation. In response to our concerns, Menlo Park commissioned Keyser Marston Associates to do a separate analysis of potential impacts to housing. That document is dated December 21, 2011 and was not available until late that day, 2 weeks after the Draft EIR. We are thus faced with only a few weeks to digest that study.

At this time of year, when so many members of the public are engaged in family matters and when government offices and businesses are closed for holiday celebrations, for a lead agency to appear to be running the clock down on a major development (when it is clearly difficult for people to give these documents the attention they deserve), comes across as less than good

City of East Palo Alto
EPA Government Center
2415 University Avenue
East Palo Alto, CA 94303

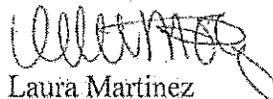
Telephone Number: (650) 853-3116
Confidential Fax Number: (650) 853-3111

Mayor Kirsten Keith and City Council
December 22, 2011
Page 2

government. Menlo Park's own citizens and businesses may well view this comment period as overly restrictive since I note that the City of Menlo Park is officially closed on 21 of the days prior to January 23.

I look forward to positive response from the City of Menlo Park on an extension of the comment period for the Facebook Draft EIR.

Yours truly,



Laura Martinez
Mayor

C: City Council

ATTACHMENT D

Section 1

Introduction

1.1 PURPOSE OF ENVIRONMENTAL IMPACT REPORT

This Draft Environmental Impact Report (EIR) for the Menlo Park Facebook Campus Project (Project) has been prepared by the City of Menlo Park (City), which is the lead agency for the Project, in conformance with the provisions of the California Environmental Quality Act (CEQA) Guidelines, as amended.¹ The lead agency is the public agency that has the principal responsibility for carrying out or approving a project.

This Draft EIR assesses potentially significant impacts that could result from the Project. As defined in the CEQA Guidelines Section 15382, a “significant effect on the environment” is:

. . . a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

As stated in the CEQA Guidelines, an EIR is an “informational document” intended to inform public agency decision-makers and the public of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The City Council will consider this Draft EIR in reviewing the Project and making the final decision to certify the Final EIR (responses to comments) and to approve or deny the Project.

The City must consider the information in the Draft and Final EIR and, particularly, each significant impact resulting from the Project. The City will use the EIR, along with other information in the public record, to determine whether to approve, modify, or disapprove the Project, and to specify any applicable environmental conditions or mitigation measures as part of the Project approvals. The purpose of this Draft EIR is to provide the City, responsible and trustee agencies, other public agencies, and the public with detailed information about the environmental effects of implementing the Project, to examine and institute methods of mitigating any adverse environmental impacts should the Project be approved, and to consider feasible alternatives to the Project.

1.2 PROJECT INTRODUCTION

Facebook, Inc. (Project Sponsor) is moving its operations from its existing facilities in the City of Palo Alto to the City of Menlo Park. The Project site consists of a 56.9-acre site (East Campus), which was

¹ *CEQA, California Environmental Quality Act, Statutes and Guidelines*, Guidelines as amended January 1, 2011, published by the Governor's Office of Planning Research.

previously occupied by Oracle (formerly Sun Microsystems), and a 22-acre site (West Campus), which was formerly owned by General Motors (GM) and occupied by TE Connectivity (formerly Tyco Electronics) (Project Site). The Project proposes that Facebook occupy the East Campus as part of the first phase and then expand to the West Campus in the second phase. In total, the Project would employ approximately 9,400 employees at both campuses.

The East Campus is currently developed with nine buildings, totaling more than one million square feet (sf). To accommodate Facebook's rapid employment growth, the Project Sponsor submitted an application to the City to modify the Conditional Development Permit (CDP) that applies to the East Campus. The Project Sponsor proposes to convert the 3,600-employee cap included in the CDP into a vehicle trip cap for the AM and PM peak periods and daily trips. According to the Project Sponsor, this approach is designed to minimize traffic, air quality, and greenhouse gas emission impacts, while still allowing approximately 6,600 workers to occupy the East Campus. It is estimated that the East Campus would reach full capacity by 2014 or 2015. Tenant Improvements (TIs) are also being undertaken to convert existing hardware-intensive laboratory spaces and individual hard-wall offices to a more open, shared workspace characteristic of the Facebook work environment. However, the TIs are being done through ministerial building permits and are not part of the Project.²

Approximately half of the West Campus is currently developed with two office buildings totaling 127,246 sf, an asphalt parking area, a guard house, and landscape features, but the entire site is currently unoccupied. The West Campus is zoned M-2 and designated General Industrial in the City's General Plan. The existing buildings at the West Campus would be demolished and developed with office buildings and amenities structures, totaling approximately 440,000 sf. Although the Project Sponsor does not intend to apply for entitlements for the West Campus at this time, this subsequent phase of development is evaluated as part of the Project in this Draft EIR. Facebook estimates that the West Campus would be operational by mid-2014 and would reach maximum occupancy of approximately 2,800 employees within two to three years thereafter.

1.3 NOTICE OF PREPARATION AND EIR SCOPE

Notice of Preparation

The Notice of Preparation (NOP) was released for the Project on April 21, 2011 for a 36-day public review period. A public scoping meeting was held on May 16, 2011 before the Planning Commission. The NOP noted that the Project may have a significant effect on the environment and that an EIR would be prepared for the Project. A copy of the NOP is provided in Appendix 1 of this Draft EIR.

The NOP was sent to individuals, local interest groups, adjacent property owners, and responsible and trustee State and local agencies having jurisdiction or interest over environmental resources and/or

² In addition to the TIs, the Project Sponsor proposed new construction on the East Campus resulting in an increase in gross floor area, which required approval of a use permit in the M-2 zoning district. The addition of approximately 1,400 sf to accommodate two small structures in the courtyard area and minor additions to Buildings 11 and 15 for two security control points was subject to CEQA review but determined to be categorically exempt under Class 3 (Section 15303) of the CEQA Guidelines.

conditions in the vicinity of the Project Site. The purpose of the NOP was to allow various private and public entities to transmit their concerns and comments on the scope and content of the Draft EIR, focusing on specific information related to each individual's or group's interest or agency's statutory responsibility early in the environmental review process.

In response to the NOP, letters were received from the following agencies:

- California Department of Transportation
- California Native Plant Society, Santa Clara Valley Chapter
- Citizens Committee to Complete the Refuge
- City of East Palo Alto
- Department of Toxic Substances Control
- East Palo Alto Bicycle Club
- Envision, Transform, Build EPA Coalition
- San Francisco Bay Conservation and Development Commission
- San Francisco Bay Trail Project
- Silicon Valley Bicycle Coalition
- West Bay Sanitary District

In addition, five letters were received from individuals and four members of the public made oral comments at the Planning Commission hearing. Copies of these NOP comment letters and comments recorded at the Planning Commission hearing are included in Appendix 1 of this Draft EIR.

The NOP concluded that the following environmental topics would be addressed as separate sections in this Draft EIR:

- Land Use
- Aesthetics
- Wind
- Transportation
- Air Quality
- Greenhouse Gas Emissions
- Noise
- Cultural Resources
- Biological Resources
- Geology and Soils
- Hydrology/Flood Hazards
- Hazardous Materials
- Population and Housing
- Public Services
- Utilities and Service Systems

The Project would not result in significant environmental impacts to agricultural, forestry, or mineral resources since none of these resources exist at the Project site. A detailed analysis of these topics is therefore not included in the Draft EIR; however, these topics are briefly discussed in Section 3.1, Introduction to the Environmental Analysis.

Draft EIR and Public Review

This Draft EIR provides an analysis of physical impacts anticipated to result from the Project. Where significant impacts are identified, the Draft EIR recommends feasible mitigation measures to reduce or eliminate the significant impacts and identifies which significant impacts are unavoidable. Alternatives to the Project are also presented (Section 5). This environmental document is considered a draft under CEQA since it must be reviewed and commented upon by public agencies, organizations, and individuals before being finalized.

This Draft EIR is being distributed for a minimum of a 45-day public review and comment period. Readers are invited to submit written comments on the document (e.g., does this Draft EIR identify and analyze the possible environmental impacts and recommend appropriate mitigation measures? Does it consider and evaluate a reasonable range of alternatives?). Comments are most helpful when they suggest specific alternatives or measures that would better mitigate significant environmental effects. Written comments should be submitted to:

Rachel Grossman, Associate Planner
City of Menlo Park
Community Development Department, Planning Division
701 Laurel Street
Menlo Park, CA 94025
Email: rmgrossman@menlopark.org

A public hearing to take oral comments on the Draft EIR will be held before the Planning Commission on January 9, 2012. Hearing notices will be mailed to responsible agencies and interested individuals.

Final EIR and Project Approval

Following the close of the public review period, the City will prepare responses to all substantive comments that relate to potential physical changes to the environment. The Draft EIR, along with the responses to the substantive comments received during the review period, will comprise the Final EIR and will be considered by the City Council in making the decision to certify the Final EIR and to approve or deny the Project.

Certification of the Final EIR by the City Council as complete and adequate in conformance with CEQA does not grant any land use approvals or entitlements for the Project. The merits of the Project will be considered by the City Council in tandem with review of the Final EIR. The CEQA Guidelines require that, for one or more significant unavoidable impacts that cannot be substantially mitigated, the Lead Agency (City of Menlo Park), must prepare a Statement of Overriding Considerations in which the Lead Agency balances the social, economic, technological, and legal benefits of approving a project against the significant and unavoidable environmental impacts which would result from project

implementation. This Statement of Overriding Considerations must be approved by the City Council in order for the Project to be approved.

1.4 EFFECT ON THE ENVIRONMENT

The environmental effects from implementing the Project are considered in this Draft EIR. Current environmental conditions (the environmental setting or baseline) under which the Project would be implemented are considered in determining impact significance. If it is determined that a potential impact is too speculative for evaluation, this condition is noted and further discussion of the impact is not necessary.

In accordance with Section 15143 of the CEQA Guidelines, this Draft EIR focuses on the significant effects on the environment resulting from construction and operation of the Project. Each major topic (e.g., Aesthetics, Biological Resources, Transportation, etc.) provides criteria or standards of significance for evaluating whether an environmental impact is significant or less than significant. The criteria presented in this Draft EIR are based on information contained in the CEQA Guidelines Appendix G, *Environmental Checklist Form*, which establishes thresholds of impact significance. In addition, this document uses City-adopted significance criteria for traffic impacts. As explained in Section 15002(g) of the CEQA Guidelines, a significant effect on the environment is defined as a substantial adverse change in the physical conditions which exist in the area affected by the Project.

Determining the significance, or severity, of an impact rests with understanding the criteria for determining a significant impact. If the criterion for determining a significant impact is not met, the impact is considered less than significant. If the criterion is exceeded, a significant impact would occur and feasible mitigation measures are proposed. The mitigation measures are intended to modify the Project such that the impact is avoided or reduced to below the significance criteria. If the mitigation measures would not reduce the impact to a less-than-significant level, the impact is considered significant and unavoidable. Cumulative impacts are discussed at the end of each technical section of this Draft EIR. A cumulative impact refers to two or more individual effects that, when considered together, compound or increase the environmental impact under consideration or other related environmental impacts.

1.5 ECONOMIC AND SOCIAL EFFECTS

Section 15131 of the CEQA Guidelines specifies that the economic or social effects of a project shall not be treated as significant effects on the environment. However, “an EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes.” Accordingly, this Draft EIR focuses on physical changes that could be caused due to implementation of the Project. Nevertheless, a housing needs analysis for the Project was prepared by Keyser Marston

Associates (KMA) and is included as Appendix 3.14 of this Draft EIR for informational purposes. Although the Project would not include the construction of new housing (a direct physical impact), the Project would trigger the demand for new housing in the area to accommodate the increase in employees (an indirect impact).

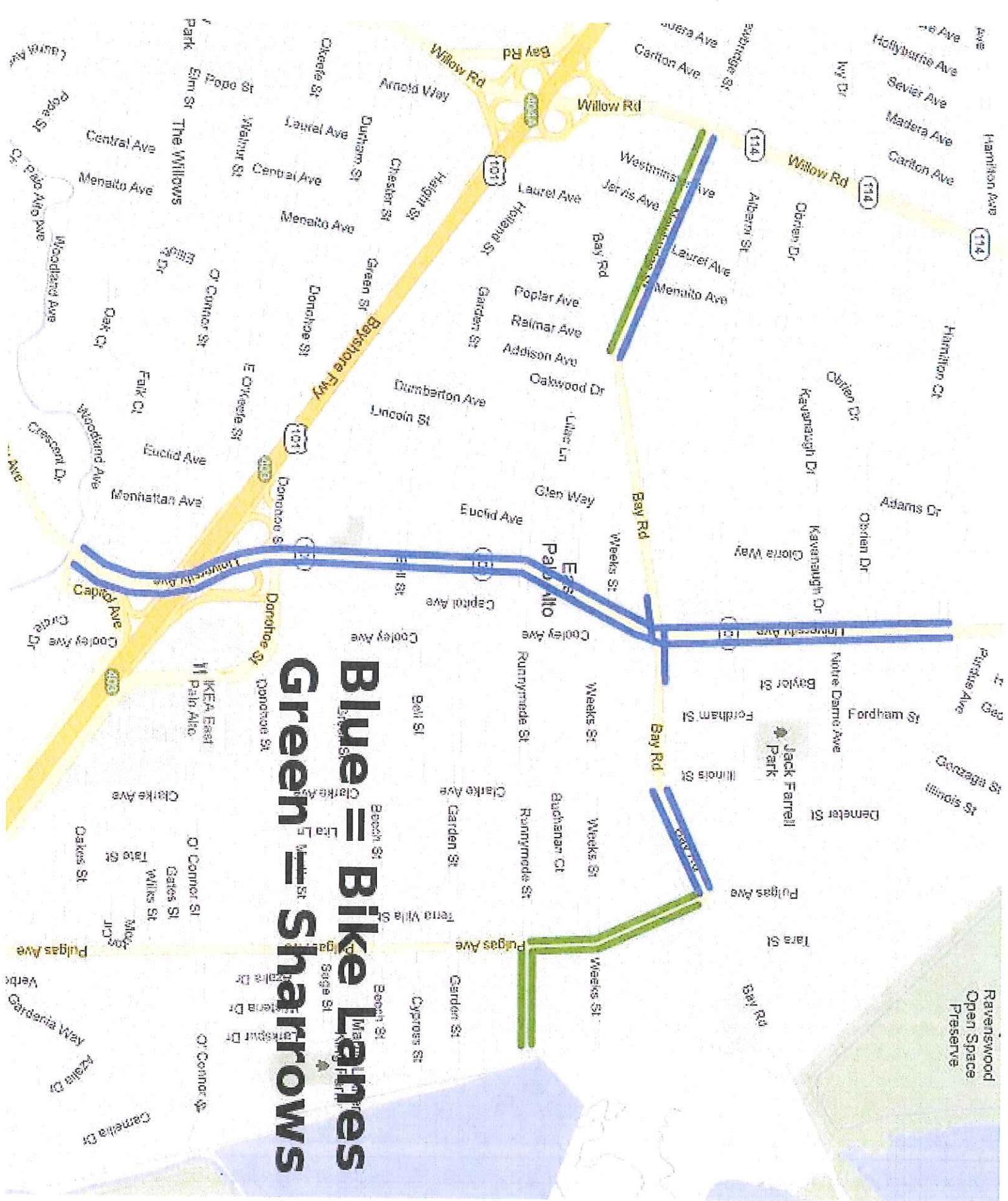
1.6 REPORT ORGANIZATION

This Draft EIR is organized into the following sections:

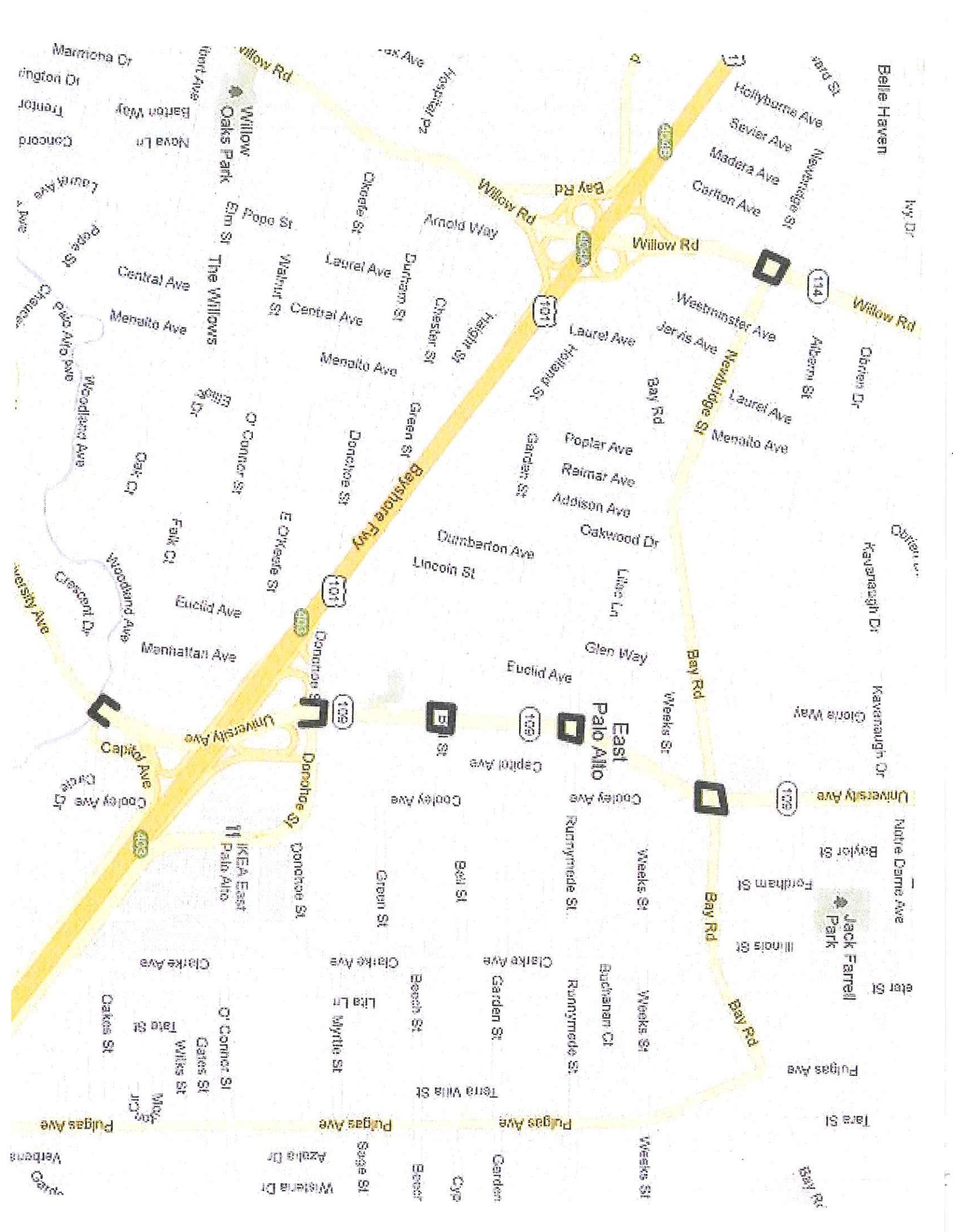
- *Summary*: Provides a summary of the Project and of the impacts that would result from its implementation, and describes mitigation measures recommended to reduce or avoid significant impacts. A discussion of alternatives to the Project is also provided.
- *Section 1 – Introduction*: Discusses the overall Draft EIR purpose, provides a summary of the Project and the Draft EIR scope, and summarizes the organization of the Draft EIR.
- *Section 2 – Project Description*: Provides a description of the Project site, site development, Project objectives, required approval process, and details of the Project itself.
- *Section 3 – Environmental Analysis*: Describes the existing conditions (setting), environmental impact assessment, and mitigation measures for each environmental technical topic.
- *Section 4 – Other CEQA Considerations*: Provides additional specifically-required analyses of the Project's effects, significant irreversible changes, cumulative impacts, and effects not found to be significant.
- *Section 5 – Alternatives*: Provides an evaluation of one alternative to the Project in addition to the No Project alternative.

ATTACHMENT E

Blue = Bike Lanes Green = Sharrows



ATTACHMENT F



Belle Haven

Hwy Dr

Hollyburn Ave
Sevier Ave
Madera Ave
Carlton Ave

114
Alberni St

Carlton Dr

Carlton Dr

Kavanaugh Dr

Kavanaugh Dr

Native Dame Ave

eter St

Fulgas Ave

Bay Rd

Willow Rd

Willow Rd

Willow Rd

Willow Rd

Westminster Ave

Bay Rd

Bay Rd

Bay Rd

Bay Rd

Bay Rd

Bay Rd

101
Holland St

Poplar Ave
Raimar Ave
Addison Ave

Dunbarton Ave

Euclid Ave

East Palo Alto

Cooley Ave

Runnymede St

Runnymede St

Runnymede St

Runnymede St

Willow Rd

Arnold Way

Laurel Ave

Central Ave

Menallo Ave

Green St

Donohoe St

Donohoe St

Lincoln St

Cherokee St

Laurel Ave

Central Ave

Menallo Ave

Green St

Donohoe St

Donohoe St

Lincoln St

Laurel Ave

Central Ave

Menallo Ave

Green St

Donohoe St

Donohoe St

Lincoln St

Walnut St

Central Ave

Menallo Ave

Green St

Donohoe St

Donohoe St

Lincoln St

Pogo St

Walnut St

Central Ave

Menallo Ave

Green St

Donohoe St

Donohoe St

Lincoln St

Elm St

Walnut St

Central Ave

Menallo Ave

Green St

Donohoe St

Donohoe St

Lincoln St

Central Ave

Menallo Ave

Central Ave

Menallo Ave

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Menallo Ave

Walnut St

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