

AGREEMENT

This Agreement ("Agreement") is entered into between the Board of Trustees of the Leland Stanford Junior University, a body having corporate powers under the laws of the State of California ("Stanford"), and the Menlo Park Fire Protection District, a special district organized under the laws of the State of California ("Fire District"), (collectively the "Parties") as of the last date executed below (the "Effective Date"), with respect to the following facts and objectives.

RECITALS

WHEREAS, Stanford has applied to the City of Menlo Park ("City") for certain entitlements related to two development projects: (1) Middle Plaza at 500 El Camino Real as described in the Menlo Park City Council staff report for the Council meeting dated September 26, 2017 ("500 ECR"); and (2) 2131 Sand Hill Road as described in the Menlo Park City Council staff report for the Council meeting dated September 26, 2017 ("2131 Sand Hill Road"). 500 ECR and 2131 Sand Hill Road are collectively referred to herein as "Project" or "proposed Project"; and

WHEREAS, the Project is located within the jurisdictional boundaries of the Fire District, and, therefore, the Fire District will provide essential emergency and fire services to the Project and persons living at, working at, or visiting the Project sites; and

WHEREAS, the Fire District has stated to the City and Stanford that the Project may have adverse impacts on the Fire District's provision of emergency and fire services; and

WHEREAS, on February 16, 2016, the Fire District Board of Directors adopted a Fire Services Impact Fee Program under Resolution 1840-2016 ("District Impact Fee Program"). The District Impact Fee Program was based on an Emergency Services and Fire Protection Impact Fee Nexus Study dated February 16, 2016 ("Nexus Study"); and

WHEREAS, neither the City of Menlo Park nor any other local jurisdiction has adopted the District Impact Fee Program and, therefore, Stanford contends that it has no legal obligation to pay impact fees to the Fire District; and

WHEREAS, notwithstanding the Parties' respective positions, and in an effort to avoid any present or future litigation regarding their disagreement, the Fire District and Stanford have discussed Stanford's payment of the fee under the District Impact Fee Program as applied to each Project; and

WHEREAS, Stanford and the Fire District have reached mutually agreeable terms for the resolution of said matters. Through this Agreement, Stanford has satisfied the concerns of the Fire District regarding the Project's potential impacts and the Fire District no longer opposes the Project as proposed.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereafter set forth, and other good and valuable consideration the receipt and adequacy of which is hereby acknowledged, the Parties agree to the following:

A. STANFORD PAYMENT OF FIRE SERVICES IMPACT FEE

1. At the time of the issuance of the first building permit for the first structure above podium/grade for the 500 ECR Project, Stanford shall pay to the Fire District the impact fee applicable to the entire 500 ECR Project as calculated under the District Impact Fee Program. Based on the information about the 500 ECR project available at the time this Agreement was entered into, the fee is estimated at \$197,213.00, which does not include an annual escalator equal to the change in the San Francisco Construction Cost Index ("CCI") as authorized under the District Impact Fee Program. Stanford agrees that the impact fee payment under this section shall be the greater of \$200,000 or the amount of the impact fee calculated under the District Impact Fee Program CCI escalator.

2. At the time of the issuance of the first building permit for the structure at 2131 Sand Hill Road, Stanford shall pay to the Fire District the impact fee applicable to the 2131 Sand Hill Road Project as calculated under the District Impact Fee Program. Based on the information about the 2131 Sand Hill Road project available at the time this Agreement was entered into, the fee is estimated at \$22,766.00, which does not include an annual escalator equal to the change in the San Francisco CCI as authorized under the District Impact Fee Program.

3. The Fees under Section A only relate to impact fees for emergency and fire services. The parties agree that nothing in this Agreement shall apply to or limit Stanford's required payment of any other fees that are adopted by the Fire District and lawfully imposed on the Project, except as otherwise specified in this Agreement.

4. The Fee payment(s) under this Section A shall be deposited into the Fire District separate account for impact fee payments and shall be used for capital facilities including fire stations and buildings, emergency and fire protection vehicles and other fire protection and emergency equipment.

B. FIRE DISTRICT POSITION ON PROJECT

The Fire District agrees that through this Agreement, Stanford has addressed the potential impacts of the Project on the Fire District. Therefore, the Fire District agrees not to challenge any approval of the Project, including but not limited to the planning and zoning entitlements, amendments, permits, CEQA documents and any Development Agreement (whether by litigation or otherwise), and further agrees not to challenge any future discretionary approval for the Project that may be required or any modifications to the Project provided such modifications do not materially increase the scope of potential impacts on the Fire District.

Nothing in the foregoing shall effect the requirement that the plans for the Project comply with the District Fire Prevention Code, California Fire Code and other adopted fire and life

safety regulations applicable to the Project and the Fire District's right to enforce compliance with said regulations.

C. ENFORCEMENT

The Parties covenant and agree that, if either party determines the other is in violation of one or more terms of this Agreement, they shall provide notice to the other in writing of what actions or inactions they deem to be in violation. Within thirty (30) days of receipt of such notice, the party receiving the notice shall respond to the notice in writing. If the Parties still dispute compliance with the Agreement, within an additional sixty (60) days, the Parties will meet and confer in a good faith attempt to resolve their dispute. If the Parties cannot informally resolve the dispute, they will enter into binding arbitration, conducted by an arbitrator agreed to by the Parties. Either party may request that the presiding Judge of the San Mateo County Superior Court select an arbitrator if the parties cannot reach agreement. The arbitration shall be binding and not subject to appeal. The arbitration shall be conducted in accordance with the arbitration rules and procedures of JAMS/ENDISPUTE or other conventional rules agreed to by the parties. The arbitrator shall be empowered to determine a prevailing party and award payment of reasonable attorneys' fees and costs to that party. To the extent there are multiple issues with a different prevailing party for one or more issues, the arbitrator may take those facts into account in terms of an award for fees and costs.

If Stanford asserts the Fire District is in violation of this Agreement and the Fire District corrects the action or inaction within sixty (60) days of notice from Stanford, no further enforcement action under the terms of this Agreement shall be taken by Stanford with respect to such violation. To the extent an alleged violation cannot be reasonably cured within the sixty-day period, and the Fire District undertakes all reasonable efforts to commence the cure of such alleged violation within that period, no further enforcement action under the terms of this Agreement shall be taken by Stanford.

If the Fire District asserts that Stanford is in violation of this Agreement and Stanford corrects the action or inaction within sixty (60) days of notice from the Fire District, no further enforcement action under the terms of this Agreement shall be taken by the Fire District with respect to such violation. To the extent an alleged violation cannot be reasonably cured within the sixty-day period, and Stanford undertakes all reasonable efforts to commence the cure of such alleged violation within that period, no further enforcement action under the terms of this Agreement shall be taken by the Fire District.

D. NOTICE

Unless otherwise provided herein or until the Parties otherwise agree in writing, all communications and notice between the Parties regarding this Agreement shall be through the following addresses:

For Fire District:

Menlo Park Fire Protection District
170 Middlefield Road
Menlo Park, CA 5448
Attn: Fire Chief

For Stanford:

Steve Elliott
Managing Director, Development
Stanford Real Estate
3160 Porter Drive, Suite 200
Palo Alto, CA 94304

With a Copy to:

District Counsel
Meyers Nave
555 12th Street, Suite 1500
Oakland, CA 94607

With a copy to:

Stanford University
Vice President and General Counsel
P.O. Box 20386
Stanford, CA 94305
Attention: Debra Zumwalt

E. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties. It is expressly understood and agreed that this Agreement may not be altered, amended, modified or otherwise changed in any respect whatsoever except by a writing duly executed by authorized representatives of the Parties hereto. The Parties hereby agree and acknowledge that they will make no claim at any time or place that this Agreement has been orally altered or modified or otherwise changed by oral communication of any kind or character. This Agreement shall supersede all previous agreements whether written or oral, that may have been reached between the Parties in connection with this matter and provides the sole remedy from any party to any other party regarding this matter.

F. ADVICE OF ATTORNEYS

This Agreement is entered into by each party freely and voluntarily. Each of the parties has had the benefit of advice of counsel of its choice in the negotiating, drafting and executing of this Agreement, and the language in all parts of this Agreement is the product of the efforts of all counsel. Accordingly, neither the entire Agreement nor any provision in it shall be deemed to have been proposed or drafted by a party or construed against any Party.

G. GOVERNING LAW/CONSTRUCTION OF AGREEMENT

This Agreement shall be governed, interpreted, construed and enforced in accordance with the laws of the State of California applicable to agreements executed and wholly performed within said State, without regard to principles of conflicts of laws. Should any provision of this Agreement be held invalid or illegal, such illegality shall not invalidate the whole of this Agreement, but rather, this Agreement shall be construed as if it did not contain the illegal part, and the rights and obligations of the Parties shall be construed and enforced accordingly.

H. AUTHORITY OF REPRESENTATION

Each party respectively represents and warrants to each other party that the undersigned representative for such party has full and complete authority to execute this Agreement and bind said party to the terms hereof.

I. COUNTERPARTS

This Agreement may be executed in counterparts with each counterpart being interpreted as an original, and all of which, taken together shall constitute one and the same instrument.

J. NO THIRD PARTY BENEFICIARIES

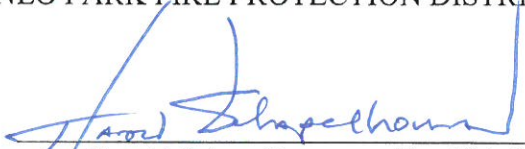
This Agreement is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Agreement for any cause whatsoever.

SO AGREED:

DATED: October 25, 2017

MENLO PARK FIRE PROTECTION DISTRICT

By:



Harold Schapelhouman, Fire Chief

DATED: _____, 2017

BOARD OF TRUSTEES OF THE LELAND
STANFORD JUNIOR UNIVERSITY

By:

A handwritten signature in cursive script, appearing to read "Steve Elliott".

Steve Elliott, Managing Director,
Development

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