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11 PROJECT, PUBLIC INTEREST LAW PROJECT
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16 Attorneys for Petitioners PENINSULA INTERFAITH
17 ACTION, YOUTH UNITED FOR COMMUNITY
18 ACTION and URBAN HABITAT PROGRAM

19 SUPERIOR COURT OF THE STATE OF CALIFORNIA

20 COUNTY OF ~~ALAMEDA~~

21 PENINSULA INTERFAITH ACTION,
22 URBAN HABITAT PROGRAM, and
23 YOUTH UNITED FOR COMMUNITY
24 ACTION,

25 Petitioners,

26 vs.

27 CITY OF MENLO PARK and MENLO
28 PARK CITY COUNCIL,

Respondents.

FILED
SAN MATEO COUNTY

JUN 13 2012

Clerk of the Superior Court
By 
DEPUTY CLERK

CASE NO. *CIV 513882*

**JUDGMENT PURSUANT TO
STIPULATION**

On or about May 16, 2012, Petitioners Peninsula Interfaith Action, Urban Habitat Program, and Youth United for Community Action ("Petitioners") filed this action against the City of Menlo Park and its City Council (collectively, "the City"), containing two causes of action which concern the City's failure to adopt an updated Housing Element of its General Plan, and to re-zone sites to accommodate its fair share of the region's need for affordable housing.

The parties desire to fully settle and resolve the merits of the above-captioned action without further litigation. The City has reached an agreement with Petitioners to resolve this

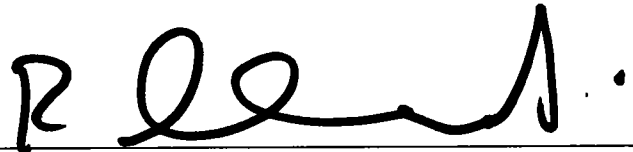
1 litigation without admission of liability or fault. A true and correct copy of the Settlement
2 Agreement, executed by all parties, is attached to this Judgment Pursuant to Stipulation as Exhibit
3 A. The Settlement Agreement provides that "[t]his Settlement Agreement shall be incorporated
4 into a Judgment of the Court, . . . and shall be enforceable pursuant to Code of Civil Procedure
5 Section 664.6." It further provides that "[t]he Court shall retain continuing jurisdiction to
6 effectuate the provisions of the Settlement Agreement and Judgment for three (3) years from the
7 later of adoption of the updated Housing Element as required pursuant to Section 5.3 and the
8 adoption of the necessary zoning ordinances/rezoning pursuant to Section 7.1" of the Settlement
9 Agreement.

10 IT IS THEREFORE STIPULATED by the parties, through their attorneys of record, that
11 this case has been settled pursuant to Section 664.6 of the Code of Civil Procedure on the terms
12 set forth in the Settlement Agreement attached as Exhibit A. The parties request that the Court
13 enter judgment accordingly, and retain jurisdiction over them to enforce the settlement agreement
14 (with the exception of Section 9.1) until three (3) years from the later of adoption of the updated
15 Housing Element as required pursuant to Section 5.3 and the adoption of the necessary zoning
16 ordinances/rezoning pursuant to Section 7.1 of the Settlement Agreement.

17 IT IS SO STIPULATED:

18 DATED: May 23, 2012

By:

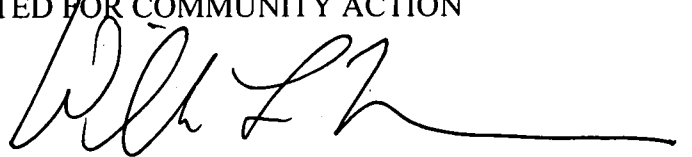


RICHARD A. MARCANTONIO

Attorneys for Petitioners PENINSULA INTERFAITH
ACTION, URBAN HABITAT PROGRAM, and YOUTH
UNITED FOR COMMUNITY ACTION

22
23 DATED: May 30, 2012

By:



WILLIAM L. MCCLURE, CITY ATTORNEY

Attorneys for Respondents CITY OF MENLO PARK and
CITY COUNCIL OF MENLO PARK

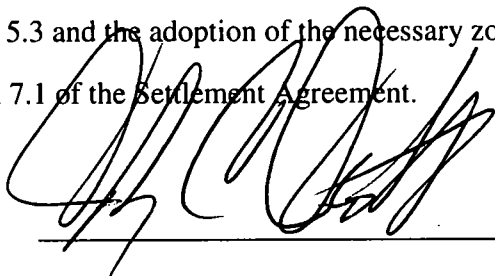
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JUDGMENT

Pursuant to the foregoing stipulation of the parties and the Court's power under Section 664.6 of the Code of Civil Procedure,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment be, and hereby is, entered in accordance with the terms of the Settlement Agreement between the parties, attached as Exhibit A hereto. This judgment expressly incorporates the terms of the attached Settlement Agreement, including but not limited to the provisions of Government Code Section 65759, which provides in part that the California Environmental Quality Act ("CEQA") "does not apply to any action necessary to bring its general plan or relevant mandatory elements of the plan into compliance with any court order or judgment under this article," provided the City will conduct the environmental assessment required by that provision. Pursuant to Section 65759, CEQA does not apply to any discretionary actions necessary to bring the Housing Element and relevant mandatory elements of the General Plan into compliance with State Law. The Court retains jurisdiction over the parties at their request to enforce the Settlement Agreement (with the exception of Section 9.1) until three (3) years from the later of adoption of the updated Housing Element as required pursuant to Section 5.3 and the adoption of the necessary zoning ordinances/rezoning pursuant to Section 7.1 of the Settlement Agreement.

Dated: JUN - 8 2012



Judge of the Superior Court

SETTLEMENT AGREEMENT

This Settlement Agreement and Covenant Not to Sue ("Settlement Agreement") is entered into by and among Petitioners PENISULA INTERFAITH ACTION, URBAN HABITAT PROGRAM and YOUTH UNITED FOR COMMUNITY ACTION, and Respondents CITY OF MENLO PARK and CITY COUNCIL OF MENLO PARK.

1. RECITALS

This Settlement Agreement is entered into based upon the following facts:

- 1.1 On or about January 30 and February 23, 2012, in letters to the City of Menlo Park, Petitioners asserted various shortcomings in the City's compliance with affordable housing laws and requesting that the City take action to correct those compliance shortcomings by June 15, 2012.
- 1.2 Soon afterwards, the Parties entered into negotiations in an effort to reach a settlement.
- 1.3 The Parties have worked in good faith to arrive at this Settlement Agreement. As reflected herein, the City has an interest in making housing more available and affordable in Menlo Park, and has worked with Petitioners to arrive at a resolution of the issues that promotes the interests of Menlo Park and the surrounding communities by meeting the housing needs of lower-income families.
- 1.4 Among other things, as set forth below, the City has agreed to identify potential housing sites that will be competitive for affordable housing funding under the federal Low-Income Housing Tax Credit program, zone those sites with zoning that provides incentives for affordable housing production, and set aside a portion of local BMR funds for non-profit development of affordable housing on those sites.
- 1.5 On or about May 16, 2012, Petitioners filed a petition for writ of mandate in the San Mateo County Superior Court entitled *Peninsula Interfaith Action, et al. v. City of Menlo Park, et al.*
- 1.6 The Parties desire to fully settle and resolve the merits of the petition for writ of mandate that the Petitioners have filed, as well as potential CEQA claims, without further litigation, on the terms and conditions set forth herein.

2. DEFINITIONS

- 2.1 "DATE OF APPROVAL" means the date on which the last of the parties has executed this Agreement.
- 2.2 "PETITIONERS" means Peninsula Interfaith Action, Urban Habitat Program and Youth United for Community Action.
- 2.3 "DEFENDANTS" and "CITY" may be used interchangeably herein, and mean the City of Menlo Park and its City Council.
- 2.4 "PETITIONERS' LITIGATION" means the action filed by Petitioners on or about May 16, 2012, known as *Peninsula Interfaith Action, et al. v. City of Menlo Park, et al.*
- 2.5 "HCD" means the California Department of Housing and Community Development.
- 2.6 "RHNA" means the Regional Housing Needs Allocation as set periodically by the Association of Bay Area Governments pursuant to California Government Code section 65584.
- 2.7 "EXTREMELY-LOW INCOME" means a household with an income up to 30% of the area median income, pursuant to Health & Safety Code § 50106.
- 2.8 "VERY-LOW INCOME" means a household with an income up to 50% of the area median income, pursuant to Health & Safety Code § 50105.
- 2.9 "LOW INCOME" means a household with a household income between 50% and 80% of the area median income, pursuant to Health & Safety Code § 50093.
- 2.10 "LOWER INCOME" includes EXTREMELY-LOW INCOME, VERY-LOW INCOME and LOW INCOME.
- 2.11 "PRIOR PLANNING PERIOD" means the period covering the third revision of the housing element, for which the Association of Bay Area Governments assigned the City, in or about March 2001, a RHNA comprising 982 total units, including 184 VERY-LOW INCOME units, 90 LOW-INCOME units, 245 moderate-income units, and 463 above-moderate income units.
- 2.12 "CURRENT PLANNING PERIOD" means the period covering the fourth revision of the housing element, for which the Association of Bay Area Governments assigned the City, in or about May 2008, a RHNA comprising 993 total units, including 226 VERY-LOW INCOME units,

163 LOW-INCOME units, 192 moderate-income units, and 412 above-moderate income units.

- 2.13 "NEXT PLANNING PERIOD" means the period covering the fifth revision of the housing element, and expected to begin in or about 2014.
- 2.14 "AFFORDABLE HOUSING OVERLAY OR OTHER ZONING MECHANISM" means a zoning ordinance that provides a package of incentives (such as permitting residential use in appropriate non-residential zones, increased residential density, reduced parking standards, streamlined and/or accelerated permitting) available only to developers of projects that will provide a significant percentage of deed-restricted residential units affordable to EXTREMELY-LOW INCOME, VERY-LOW INCOME and LOW INCOME households. For purposes of this settlement agreement, "a significant percentage" shall mean substantially more than 15%.
- 2.15 "PRIORITY DEVELOPMENT AREAS" means the areas surrounding the El Camino Real corridor and downtown Menlo Park, as shown within the dotted lines in the FOCUS map attached as **Exhibit A**.
- 2.16 "LIHTC PROGRAM" means the federal Low-Income Housing Tax Credit Program established by 26 U.S.C. § 42 and administered in California by the California Tax Credit Allocation Committee.
- 2.17 "AFFORDABLE HOUSING ANALYSIS" means the inventory and analysis of sites pursuant to Government Code §§ 65583 and 65583.2, which includes an analysis of the viability and competitiveness of each site in the site inventory for funding for affordable housing under the LIHTC Program.
- 2.18 "BELOW MARKET RATE" or "BMR" program means the program established in Chapter 16.96 of the Menlo Park Municipal Code with the purpose of increasing the housing supply for households that have very low, low and moderate incomes and with the primary objective of creating actual housing units.

AGREEMENT

3. RECITALS INCORPORATED.

- 3.1 The above recitals and definitions are incorporated into and made a part of this Settlement Agreement.

4. AFFORDABLE HOUSING ANALYSIS

- 4.1 No later than August 31, 2012, subject to reasonable extension for unforeseen delays, the City shall prepare and issue publicly a draft

AFFORDABLE HOUSING ANALYSIS which shall include an inventory and analysis of sites that meets the requirements of Government Code §§ 65583 and 65583.2, and shall include an analysis of the viability and competitiveness of each site in the site inventory for funding for affordable housing under the LIHTC Program.

- 4.2 From that AFFORDABLE HOUSING ANALYSIS, the City shall designate available sites in the updated Housing Element as appropriate for affordable housing development, and rezone those sites, as set forth in Sections 6 and 7, below.

5. HOUSING ELEMENT UPDATE

- 5.1 No later than the later of September 30, 2012, or 30 days from the public issuance of the draft AFFORDABLE HOUSING ANALYSIS, and subject to reasonable extension for unforeseen delays, the City shall prepare and issue publicly a draft updated Housing Element in compliance with California law that accommodates, at a minimum, the City's RHNA for very-low, low and moderate income households for both the Current Planning Period and the unmet RHNA share for the Prior Planning Period.
- 5.2 No later than October 31, 2012, subject to reasonable extension for unforeseen delays, the City shall submit the draft updated Housing Element to HCD for its statutory compliance review pursuant to Government Code §65585, with the goal being to obtain findings and a determination of substantial compliance by HCD. The City shall use best efforts to obtain such a determination from HCD for the updated Housing Element.
- 5.3 The City Council shall consider HCD's determination or other findings and adopt a Housing Element that substantially complies with California law for the CURRENT PLANNING PERIOD (including accommodating the unmet RHNA share for the Prior Planning Period) and includes the policies and programs described in Section 6, no later than March 15, 2013, subject to reasonable extension for unforeseen delays.
- 5.3.1 If no findings are timely received from HCD in accordance with Government Code Section 65585, the City may still take action to adopt the updated Housing Element by the aforementioned date.
- 5.4 Within 60 days of adopting the updated Housing Element, subject to reasonable extension for unforeseen delays, the City shall complete any and all General Plan amendments necessary to make the General Plan consistent with the updated Housing Element and to accommodate in full its RHNA at each income level for the CURRENT PLANNING PERIOD and the unmet RHNA share for the Prior Planning Period.

6. HOUSING ELEMENT CONTENTS

6.1 The draft and adopted Housing Element update referenced in Sections 5.2 and 5.3, above, shall include programs, policies and parameters to rezone adequate sites from the AFFORDABLE HOUSING ANALYSIS for affordable housing and to make all necessary zoning changes to accommodate such development and make the zoning ordinance internally consistent. Among other things:

6.1.1 The updated Housing Element will include a ministerial program to adopt, within 60 days of the adoption of the updated Housing Element, an AFFORDABLE HOUSING OVERLAY OR OTHER ZONING MECHANISM to facilitate the development of the required number of affordable units, including units affordable to extremely-low, very-low and low income households.

6.1.2 The updated Housing Element will include a ministerial program to apply the AFFORDABLE HOUSING OVERLAY OR OTHER ZONING MECHANISM to adequate sites to accommodate the lower-income RHNA, including the sites identified in the AFFORDABLE HOUSING ANALYSIS as the most competitive for the LIHTC Program.

6.1.3 The AFFORDABLE HOUSING OVERLAY OR OTHER ZONING MECHANISM would include a package of incentives (e.g., permitting residential use in appropriate non-residential zones, increased residential density, reduced parking standards, streamlined or accelerated permitting) available only to developers of projects that will provide a significant percentage (which shall mean substantially more than the City's inclusionary BMR requirement of 15%) of deed-restricted residential units affordable to and reserved for extremely-low, very-low and low income households. The AFFORDABLE HOUSING OVERLAY OR OTHER ZONING MECHANISM shall also include incentives (such as higher density) for owners of smaller sites to assemble them into larger parcels appropriate for LOWER INCOME residential development.

6.1.4 The updated Housing Element shall include the programs referenced in Sections 8.1, 8.2 and 8.3, below, relating to the City's BELOW MARKET RATE program.

7. SITE RE-ZONING

7.1 Within 60 days of adopting the updated Housing Element, subject to reasonable extension for unforeseen delays, the City shall complete all

actions necessary to implement the ministerial rezoning programs in the adopted updated Housing Element, which are described in Section 6.1, above, and include, but are not limited to, rezoning sites appropriate for development of LOWER INCOME housing.

- 7.2 A minimum proportion, to be established during the Housing Element update process but in no event less than 35%, of the site acreage to be rezoned for affordable housing will be located inside of or within one-half mile of Menlo Park's PRIORITY DEVELOPMENT AREAS.

8. BELOW MARKET HOUSING PROGRAM

- 8.1 As part of the update to the Housing Element referenced in Section 5, above, the City shall study the City's BELOW MARKET RATE program and the fees associated therewith, compare its BMR fees with those charged by other surrounding jurisdictions, and analyze the BELOW MARKET RATE program's efficacy at encouraging the creation of LOWER INCOME housing. If any changes to the BMR program or fees are determined to be appropriate, a program to implement those changes shall be included in the updated Housing Element.
- 8.2 As part of the update to the Housing Element, the City shall include a program to establish a clear policy and criteria for the allocation of funds from the City's BMR housing fund that prioritizes non-profit development of workforce rental housing affordable to low and very-low income households on sites the City has determined to be viable for LIHTC funding by setting aside a substantial portion of the uncommitted BMR fund balance and of future BMR fees received by the City for such development.
- 8.3 As part of the update to the Housing Element, the City shall consider the addition of policies and programs designed to encourage the provision of LOWER INCOME housing within the City, and include appropriate policies that meet the requirements of the Housing Element Law. Such policies and programs shall include, but are not limited to, policies and programs promoting multifamily housing, promoting extremely low income housing opportunities, promoting housing for families with children, promoting affordable senior housing, and prohibiting housing discrimination. Any policies deemed appropriate shall be included in the updated Housing Element.
- 8.4 Within 60 days of adopting the updated Housing Element, the City shall issue a notice of availability of funds to non-profit developers of housing affordable to EXTREMELY-LOW, VERY-LOW and LOW INCOME households and not less frequently than every two years thereafter, provided there is an uncommitted balance of at least \$1 million on deposit

in the City's BMR fund, with a goal of developing a substantial number of deed-restricted affordable units within three years.

9. NEXT PLANNING PERIOD

9.1 The City shall use good faith efforts to adopt a timely and compliant Housing Element for the NEXT PLANNING PERIOD that fully accommodates the unmet share of the City's RHNA at each income level for that planning period. The City shall also use good faith efforts to rezone additional sites in the NEXT PLANNING PERIOD to the extent necessary to accommodate the affordable portion of the RHNA for that planning period at each income level. Good faith efforts shall include, but not be limited to, beginning the update process within a reasonable time after the new planning period begins, and including the costs of updating the Housing Element and completing the rezoning in the City's Capital Improvement Plan and budget for FY 2013-14. Nothing in this paragraph shall excuse the City's failure to timely adopt an updated housing element for the NEXT PLANNING PERIOD.

10. ENVIRONMENTAL REVIEW

10.1 The Judgment in this action shall incorporate Government Code Section 65759, which provides in part that the California Environmental Quality Act ("CEQA") "does not apply to any action necessary to bring its general plan or relevant mandatory elements of the plan into compliance with any court order or judgment under this article," and the City will conduct the environmental assessment required by that provision. Pursuant to Section 65759, CEQA does not apply to any discretionary actions necessary to bring the Housing Element and relevant mandatory elements of the General Plan into compliance with State Law. The parties further agree that CEQA does not apply to the implementation of ministerial programs in the updated Housing Element.

11. REPORTING

11.1 Periodically, at least quarterly, the Parties will meet to discuss the City's progress in attaining compliance with the terms of this Settlement Agreement. The City will also collaborate with organizations suggested by PETITIONERS who are interested in assisting in community outreach and education in connection with the Housing Element update contemplated in the settlement agreement for the CURRENT PLANNING PERIOD.

11.2 The City shall annually submit to HCD an implementation report as required by Government Code Section 65400, and shall provide a copy of each such report to Public Advocates within 15 days after submitting it to HCD.

12. JUDGMENT AND ENFORCEMENT

- 12.1 Contemporaneous with the execution of this Settlement Agreement, the Parties shall execute a Judgment pursuant to Stipulation, in the form attached as **Exhibit B**. This Settlement Agreement (with the exception of Section 9.1) shall be incorporated into that Judgment pursuant to Stipulation, and shall be enforceable pursuant to Code of Civil Procedure Section 664.6.
- 12.2 The Court shall retain continuing jurisdiction to effectuate the provisions of the Settlement Agreement and Judgment for three (3) years from the later of adoption of the updated Housing Element as required pursuant to Section 5.3 and the adoption of the necessary zoning ordinances/rezoning pursuant to Section 7.1.
- 12.3 In the event that any Party believes that another Party is in breach of any of the terms set forth in this Settlement Agreement, the Party asserting a breach shall give written notice to the other Party of the breach, which notice shall set forth with reasonable particularity the alleged breach and action required to remedy the alleged breach. The Parties shall meet, confer, and attempt to resolve the alleged breach within thirty (30) days of such notice. If the Parties cannot resolve the alleged breach within such time, any party may seek judicial enforcement. The notice in this subsection shall be effective upon personal service or receipt by overnight courier or other mailed service providing for evidence of delivery/receipt, or by facsimile with evidence of completion of transmission, or by email with acknowledgement of receipt, to the attorney of Party to whom notice is to be given.

13. CITY PERMITTING AUTHORITY

- 13.1 The City's permitting authority shall not be suspended by the Court in the judgment, provided, however, that the Court may suspend the City's permitting authority for failure to comply with the terms of Sections 5, 6 or 7 of the stipulated judgment, following notice and opportunity to cure any such failure.
- 13.2 Nothing shall preclude Petitioners from seeking the imposition of permitting restrictions or other enforcement remedies if judicial enforcement of any provision of this Settlement Agreement is required.

14. NO ADDITIONAL LITIGATION; PETITIONERS' WAIVER AND RELEASE

- 14.1 The City shall not pursue an appeal or further litigation from the stipulated Judgment entered pursuant to Section 11.2.

14.2 Except as expressly provided herein, for and in consideration of the covenants made herein, Petitioners do hereby completely waive, release and forever discharge the City, and the City's predecessors and successors-in-interest, heirs, assigns, past, present, and future, Council members, staff, principals, agents, officers or directors, managers, employees, attorneys, insurers and all other persons or entities in any manner related thereto or acting on their behalf, from any and all claims, demands, actions, proceedings and causes of action of any and every sort, whether known or unknown, arising out of or relating to the City's failure to timely adopt an updated Housing Element and General Plan, including any environmental assessment related thereto, for the CURRENT PLANNING PERIOD. Petitioners covenant not to sue the City with respect to the Environmental Impact Report in connection with any Facebook projects and/or any other project/land use proceeding pending in the City of Menlo Park as of the Date of Approval.

14.3 Petitioners and the City intend this Settlement Agreement to be and constitute a full general release and to constitute a full and final accord and satisfaction extending to all claims arising out of or relating to the PETITIONERS' LITIGATION, whether the same are known, unknown, suspected or anticipated, unsuspected or unanticipated. Accordingly, except as expressly provided herein, Petitioners, by signing this Settlement Agreement, agree and warrant that they have read, understand and expressly release and waive the provisions of California Civil Code Section 1542, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Petitioners understand and acknowledge that the significance and consequence of this release and waiver of California Civil Code Section 1542 is that, except as expressly provided herein, even if Petitioners should eventually suffer additional damages or losses arising out of or relating to the PETITIONERS' LITIGATION, or should there exist other undisclosed rights, obligations or liabilities arising out of or relating to the PETITIONERS' LITIGATION, Petitioners may not make any claim for those damages, losses or obligations.

14.4 Except as set forth in Section 14.2, this Settlement Agreement shall not extend to any claim or cause of action arising from any transaction or occurrence subsequent to the Date of Approval, including without limitation any claim that Petitioners may assert in connection with the

City's new Housing Element update or other implementation actions pursuant to this Agreement.

15. ATTORNEYS' FEES

- 15.1 The City shall pay Public Advocates Inc., on behalf of Petitioners and Public Advocates' co-counsel, the Public Interest Law Project, the sum of One Hundred Fourteen Thousand Dollars (\$114,000.00) in full settlement of Petitioners' attorneys' fees and costs through the entry of Judgment Pursuant to Stipulation in PETITIONERS' LITIGATION. Payment of this settlement amount shall be made no later than June 30, 2012.
- 15.2 Except as expressly set forth herein, Petitioners and their attorneys shall have no other claim or right to, and hereby waive and release the City from, any and all other or additional consideration or payment of any kind in connection with or arising from the settlement and obtaining entry of a stipulated judgment in this matter. This waiver and release shall not apply to claims for attorneys' fees and costs incurred after the entry of judgment to enforce this Settlement Agreement or the Judgment, and the Court may order the City to pay such fees expended by Petitioners' counsel to obtain the City's compliance with the terms of the Stipulated Judgment.

16. OTHER PROVISIONS

- 16.1 No Admission of Liability. Nothing in this Settlement Agreement may be used or construed by the Parties or by any other person or entity as an admission of liability or fault.
- 16.2 Effective Date; Counterparts. This Settlement Agreement shall be effective as of the Date of Approval. This Settlement Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by facsimile shall be as effective as delivery of a manually executed counterpart of this Settlement Agreement.
- 16.3 Integration. This Settlement Agreement embodies the entire agreement and understanding which exists between the signatories hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, representations, and undertakings. No supplement, modification, or amendment of this Settlement Agreement shall be binding unless executed in writing by all the parties. No waiver of any of the provisions of this Settlement Agreement shall be deemed, or shall constitute, a waiver of any other provisions whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

- 16.4 **Gender/Tense.** Whenever required by the context hereof, the singular shall be deemed to include the plural, and the plural shall be deemed to include the singular, and the masculine, feminine and neuter genders shall each be deemed to include the other.
- 16.5 **Headings.** The headings in this Settlement Agreement are inserted for convenience only and shall not be used to define, limit, or describe the scope of this Settlement Agreement or any of the obligations herein. All attachments that are labeled Exhibits are attached hereto and incorporated herein by reference.
- 16.6 **California Law.** This Settlement Agreement shall be construed, interpreted, and governed by the laws of California without regard to the choice of law provisions thereof.
- 16.7 **Additional Documents and Good Faith Cooperation.** All Parties agree to cooperate fully in good faith and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the terms and intent of this Settlement Agreement.
- 16.8 **No Inducement.** The Parties acknowledge, warrant and represent that no promises, inducements or agreements not expressly contained herein have been made to enter into this Settlement Agreement and that this Settlement Agreement, including all Releases herein, constitute the entire agreement between the Parties, are contractual and binding and are not merely recitals.
- 16.9 **Advice of Counsel.** Each Party warrants and represents that prior to executing this Settlement Agreement, said Party has relied upon the advice of legal counsel of said Party's choice. The Settlement Agreement, its text and other consequences and risks have been completely explained to the Parties by their respective counsel and the Parties warrant and represent that they understand and accept the terms of this Settlement Agreement and intend, by their signatures, to enter into and be bound hereby.
- 16.10 **Authority of Signatories.** Each signatory to this Settlement Agreement represents and covenants that he or she possesses the necessary capacity and authority to sign and enter into this Settlement Agreement and to bind the Party on whose behalf he or she is a signatory.
- 16.11 **No Waiver.** The failure of the Parties, or either of them, to insist upon strict adherence to any term of this Settlement Agreement on any occasion shall not be considered a waiver thereof, or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Settlement Agreement.

16.12 Binding On Successors. This Settlement Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, and the Parties' successors, devisees, executors, heirs, administrators, managers, officers, representatives, assigns, insurers, and employees.

16.13 No Third Party Beneficiaries. The Parties do not intend to create any third party beneficiary of, or any other rights under, this Agreement.

IN WITNESS WHEREOF, the undersigned agree and stipulate to the terms and conditions stated above:

DATED: May 29, 2012

CITY OF MENLO PARK and CITY COUNCIL
OF MENLO PARK

By: 
ALEX D. McINTYRE, CITY MANAGER

DATED: May _____, 2012

PENINSULA INTERFAITH ACTION

By: _____
JENNIFER MARTINEZ,
EXECUTIVE DIRECTOR

DATED: May _____, 2012

URBAN HABITAT PROGRAM

By: _____
ALLEN FERNANDEZ SMITH,
EXECUTIVE DIRECTOR

DATED: May _____, 2012

YOUTH UNITED FOR COMMUNITY ACTION

By: _____
ISABEL ANNIE LOYA,
EXECUTIVE DIRECTOR

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IN WITNESS WHEREOF, the undersigned agree and stipulate to the terms and conditions stated above:

DATED: May _____, 2012

CITY OF MENLO PARK and CITY COUNCIL
OF MENLO PARK

By: _____
ALEX D. McINTYRE, CITY MANAGER

DATED: May 23, 2012

PENINSULA INTERFAITH ACTION

By: 
JENNIFER MARTINEZ,
EXECUTIVE DIRECTOR

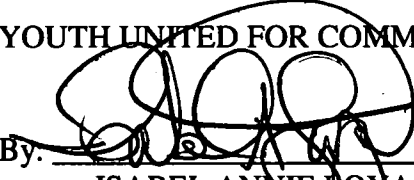
DATED: May 23, 2012

URBAN HABITAT PROGRAM

By: 
ALLEN FERNANDEZ SMITH,
EXECUTIVE DIRECTOR


DATED: May 23, 2012

YOUTH UNITED FOR COMMUNITY ACTION

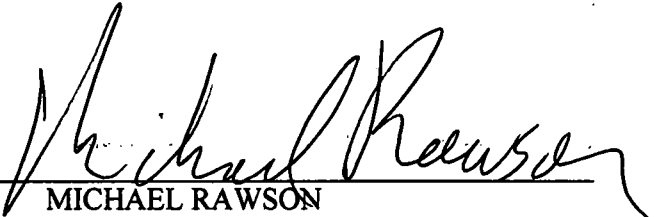
By: 
ISABEL ANNIE DOYA,
EXECUTIVE DIRECTOR

APPROVED AS TO FORM:

DATED: May 23, 2012

By: 
RICHARD A. MARCANTONIO
Attorneys for Petitioners PENINSULA
INTERFAITH ACTION, URBAN HABITAT
PROGRAM and YOUTH UNITED FOR
COMMUNITY ACTION

DATED: May 23, 2012

By: 
MICHAEL RAWSON
Attorneys for Petitioners PENINSULA
INTERFAITH ACTION, URBAN HABITAT
PROGRAM and YOUTH UNITED FOR
COMMUNITY ACTION

DATED: May _____, 2012

By: _____
WILLIAM L. MCCLURE, CITY
ATTORNEY

Attorneys for Respondents CITY OF MENLO
PARK and CITY COUNCIL OF MENLO PARK

APPROVED AS TO FORM:

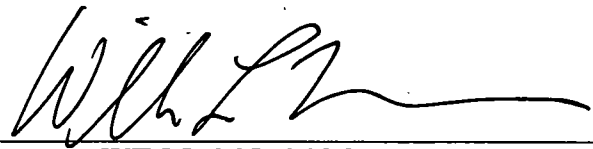
DATED: May _____, 2012

By: _____
RICHARD A. MARCANTONIO
Attorneys for Petitioners PENISULA
INTERFAITH ACTION, URBAN HABITAT
PROGRAM and YOUTH UNITED FOR
COMMUNITY ACTION

DATED: May _____, 2012

By: _____
MICHAEL RAWSON
Attorneys for Petitioners PENISULA
INTERFAITH ACTION, URBAN HABITAT
PROGRAM and YOUTH UNITED FOR
COMMUNITY ACTION

DATED: May 29, 2012

By: 

WILLIAM L. MCCLURE, CITY
ATTORNEY







Attorneys for Respondents CITY OF MENLO
PARK and CITY COUNCIL OF MENLO PARK



Map Legend

Planned Land Use

Menlo Park

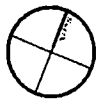
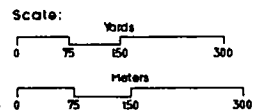
-  Professional & Administration
-  Retail/Commercial
-  Medium Density Residential
-  Very Low Density Residential
-  El Camino Real Professional/Retail Commercial
-  Public Facilities

Public Transportation

-  Caltrain Rail Station

 **Priority Development Area: Potential**

Source: Association of Bay Area Governments.
 Street Base Map © 2006 TeleAtlas, Inc. All rights reserved
 ABAG GIS/August 2008



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17 ACTION, YOUTH UNITED FOR COMMUNITY
18 ACTION and URBAN HABITAT PROGRAM

19 SUPERIOR COURT OF THE STATE OF CALIFORNIA
20 COUNTY OF ALAMEDA

21 PENINSULA INTERFAITH ACTION,
22 URBAN HABITAT PROGRAM, and
23 YOUTH UNITED FOR COMMUNITY
24 ACTION,

25 Petitioners,

26 vs.

27 CITY OF MENLO PARK and MENLO
28 PARK CITY COUNCIL,

Respondents.

CASE NO.

JUDGMENT PURSUANT TO
STIPULATION

On or about May 16, 2012, Petitioners Peninsula Interfaith Action, Urban Habitat Program, and Youth United for Community Action ("Petitioners") filed this action against the City of Menlo Park and its City Council (collectively, "the City"), containing two causes of action which concern the City's failure to adopt an updated Housing Element of its General Plan, and to re-zone sites to accommodate its fair share of the region's need for affordable housing.

The parties desire to fully settle and resolve the merits of the above-captioned action without further litigation. The City has reached an agreement with Petitioners to resolve this

1 litigation without admission of liability or fault. A true and correct copy of the Settlement
2 Agreement, executed by all parties, is attached to this Judgment Pursuant to Stipulation as Exhibit
3 A. The Settlement Agreement provides that “[t]his Settlement Agreement shall be incorporated
4 into a Judgment of the Court, . . . and shall be enforceable pursuant to Code of Civil Procedure
5 Section 664.6.” It further provides that “[t]he Court shall retain continuing jurisdiction to
6 effectuate the provisions of the Settlement Agreement and Judgment for three (3) years from the
7 later of adoption of the updated Housing Element as required pursuant to Section 5.3 and the
8 adoption of the necessary zoning ordinances/rezoning pursuant to Section 7.1” of the Settlement
9 Agreement.

10 IT IS THEREFORE STIPULATED by the parties, through their attorneys of record, that
11 this case has been settled pursuant to Section 664.6 of the Code of Civil Procedure on the terms
12 set forth in the Settlement Agreement attached as Exhibit A. The parties request that the Court
13 enter judgment accordingly, and retain jurisdiction over them to enforce the settlement agreement
14 (with the exception of Section 9.1) until three (3) years from the later of adoption of the updated
15 Housing Element as required pursuant to Section 5.3 and the adoption of the necessary zoning
16 ordinances/rezoning pursuant to Section 7.1 of the Settlement Agreement.

17 IT IS SO STIPULATED:

18 DATED: May _____, 2012

By:

RICHARD A. MARCANTONIO

Attorneys for Petitioners PENISULA INTERFAITH
ACTION, URBAN HABITAT PROGRAM, and YOUTH
UNITED FOR COMMUNITY ACTION

23 DATED: May _____, 2012

By:

WILLIAM L. MCCLURE, CITY ATTORNEY

Attorneys for Respondents CITY OF MENLO PARK and
CITY COUNCIL OF MENLO PARK

JUDGMENT

Pursuant to the foregoing stipulation of the parties and the Court's power under Section 664.6 of the Code of Civil Procedure,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment be, and hereby is, entered in accordance with the terms of the Settlement Agreement between the parties, attached as Exhibit A hereto. This judgment expressly incorporates the terms of the attached Settlement Agreement, including but not limited to the provisions of Government Code Section 65759, which provides in part that the California Environmental Quality Act ("CEQA") "does not apply to any action necessary to bring its general plan or relevant mandatory elements of the plan into compliance with any court order or judgment under this article," provided the City will conduct the environmental assessment required by that provision. Pursuant to Section 65759, CEQA does not apply to any discretionary actions necessary to bring the Housing Element and relevant mandatory elements of the General Plan into compliance with State Law. The Court retains jurisdiction over the parties at their request to enforce the Settlement Agreement (with the exception of Section 9.1) until three (3) years from the later of adoption of the updated Housing Element as required pursuant to Section 5.3 and the adoption of the necessary zoning ordinances/rezoning pursuant to Section 7.1 of the Settlement Agreement.

Dated: _____

Judge of the Superior Court