January 10, 2002

THE HONORABLE CITY COUNCIL
Palo Alto, California

RE: Request for Council Consideration of Development Fee and Mitigation Policy and Request to Schedule a Noticed Public Meeting on a Resolution of the Council of the City of Palo Alto Declaring Council Policy to Mitigate Development Impacts and Initiating Proceedings to Establish Development Impact Fees for Parks, Community Centers and Libraries

Dear Members of the Council:

Attached please find a resolution we prepared at the request of the City Manager and Director of Administrative Services. The resolution provides both the legal framework and policy direction necessary for the City to begin using “placeholder” fee conditions in anticipation of the City Council adopting development impact fees for parks, community centers and libraries. The effect of the resolution will be to direct the City Manager and City Attorney to take steps immediately so that development projects are charged for their fair share of impacts on parks, community centers and libraries.

In order to assure a fair opportunity for public review and the broadest applicability of this action, we recommend that the Council consider the resolution in two steps. First, on January 14, 2002, Council may consider and debate the matter as an item of policy, and take public comments. Second, pursuant to notice requirements under the Subdivision Map Act, we recommend that the Council agendize this item for a noticed
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The resolution coalesces and focuses existing 1998-2010 Comprehensive Plan policies relating to parks, community centers and libraries. In general, the Comprehensive Plan establishes a clear vision and community standards for the maintenance and enhancement of these vital public facilities. Because development impact fees under the Mitigation Fee Act (Gov. Code, §§ 66000, et seq.) have not yet been adopted, the resolution relies upon the City’s constitutional police power and the California Environmental Quality Act as sources of authority for the imposition of “placeholder” fee conditions (pending approval of Mitigation Fee Act-based fees). The resolution respects constitutional constraints on the police power by limiting “placeholder” park, community center and library exactions to the “fair share” applicable to individual development projects. Existing Comprehensive Plan Final Environmental Impact Report mitigation measures require environmental assessment of impacts on park facilities.

The resolution goes on in its two final sections (4 & 5) to articulate City Council interpretations of the Comprehensive Plan and California Environmental Quality Act. Accordingly, as a declaration of existing law and as a “general matter” (so that we may craft exceptions if legally necessary case-by-case), Section 4 concludes that projects will be deemed inconsistent with the adopted 1998-2010 Comprehensive Plan if they fail to include conditions or features necessary to bear a fair share of park, community center and library requirements.

Section 5 addresses the thorny problem of projects that individually do not cause the need for new facilities but which cumulatively add up to serious environmental problems. Accordingly, Section 5 finds and declares that, again as a “general matter,” the cumulative impacts of development upon park, community center and library needs will be determined to
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be significant environmental effects. This language means that mitigation for these impacts will be required as a matter of City development policy.

Respectfully submitted,

ARIEL PIERRE CALONNE
City Attorney

APC:sm
Attachment (0052910)
cc: Frank Benest, City Manager
    Emily Harrison, Assistant City Manager
    Carl Yeats, Director of Administrative Services Department