# City of Palo Alto (ID # 1338)

## Policy and Services Committee Staff Report

**Report Type: Meeting Date: 4/20/2011**

**Summary Title: SUMC Development Agreement Review**

**Title: Review of the Stanford University Medical Center Facilities Renewal and Replacement Project Draft Development Agreement**

**From: City Manager**

**Lead Department: Planning and Community Environment**

**RECOMMENDATION**

Staff recommends that the Policy and Services Committee review and comment on the Stanford University Medical Center (SUMC) Facilities Renewal and Replacement Project Draft Development Agreement, and forward those comments to the City Council to be reviewed as part of the overall entitlement package for the SUMC Project.

This is essentially the same report that was considered at the Finance Committee at its meeting in March on this subject. **Staff continues to meet with Stanford to resolve outstanding issues and as such, may have an amended recommendation to share with the Policy and Services Committee for the April 20, 2011 meeting, but after this staff report goes out in the packet.**

**BACKGROUND**

Description of Project

The Stanford University Medical Center (SUMC) comprises the general area between Sand Hill Road, Vineyard Lane, Quarry Road, Pasteur Drive, and including Welch Road and Blake Wilbur Drive. The applicant is proposing the demolition of the existing Stanford Hospital and Clinics (SHC), construction of new hospital buildings, renovation and expansion of the Lucile Packard Children's Hospital (LPCH), reconstruction of the School of Medicine (SoM) facilities, and construction of new medical office buildings and parking structure as well as the renovation of the Hoover Pavilion to meet State mandated seismic safety standards (SB 1953) and to address capacity issues, changing patient needs and modernization requirements.

The SUMC Project, the largest development project in recent history, consists of 68 acres and would add approximately 1.3 Million net square feet of new development over an approximate 20 year build out period. The Project is expected to generate a total of 2,417 new employees or 2,242 full-time equivalent employees. During the most intensive period of construction, the average number of construction workers on site would range from 500-800 workers. By full buildout the SUMC Project is projected to increase the daily average number of occupied beds

by 210. The Emergency Department would be expanded from 11,700 square feet to 47,892 square feet and the number of treatment spaces would be increased from 38 to 51. As a result, by full occupancy ED trips will be expanded from 116 per day to 199 per day. By full buildout the SUMC Project is projected to increase annual outpatient visits by 215,050. As discussed in more detail below, the fiscal impacts of the Project are largely driven by the projected employee and patient increases.

Summary of Updated Fiscal Reports

On January 12, 2011, Stanford's consultant CBRE informed the City that there had been a slight shifting of the SUMC Project phasing that could impact the fiscal analysis. City staff requested its fiscal consultant ADE to update its fiscal analysis to account for the updated project phasing and also to run the fiscal analysis through the life of the project (51 years), rather than the previous 31 years used by CBRE. The 51 year period better aligns with the project conditions imposed through the Development Agreement. An updated version of ADE's Fiscal Report is included as Attachment C. Table 1 contains an annualized summary of ADE's fiscal analysis in current dollars for the time period of 2011 through 2062. For comparison purposes, Table 1 contains a staff extrapolation CBRE's original 31 year analysis out to 51 years. ADE's updated analysis now projects a cumulative project related deficit for the City of $8.46 million in constant dollars and CBRE's extrapolated projection shows a surplus of approximately $6.5 million in constant dollars. Both projections assume that all projected revenues are realized.

**Table 1**

**Comparative Fiscal Analysis of Stanford University Medical Center Project**

**Annualized Projection of Fiscal Impacts 2011-2062 (51 Years)**

| Item | ADE Analysis Mar 2011 Total Projected | CBRE Analysis Jan 2011 (1) Total Projected | ADE minus CBRE Difference |
|---|---|---|---|
| **General Fund Revenue** | | | |
| Sales Tax | | | |
| SUMC Direct Purchasing | $ 1,744,151 | $ 1,744,151 | $ - |
| SUMC Facilities On-site sales | 6,090,816 | 6,090,816 | - |
| SUMC Employee Spending | 2,606,890 | 2,608,110 | (1,220) |
| SUMC Overnight Visitor Spending | 13,229 | 17,620 | (4,391) |
| Construction Related Purchasing | 8,148,415 | 8,148,415 | - |
| Construction Worker Spending | 16,303 | 112,425 | (96,122) |
| Property Tax | 2,289,664 | 2,612,552 | (322,888) |

| | | | |
|---|---|---|---|
| Transient Occupancy Tax | 270,994 | 355,533 | (84,539) |
| Utility Users Tax | 13,166,846 | 13,856,432 | (689,586) |
| Other | | | |
| Motor Vehicle In-Lieu Fees | 558,906 | 717,111 | (158,205) |
| Fines and Penalties | 1,430,999 | 1,430,985 | 14 |
| **Sub-Total** | **$ 36,337,213** | **$ 37,694,150** | **$ (1,356,937)** |
| **General Fund Expense** | | | |
| City Attorney | 1,175,710 | 136,431 | 1,039,279 |
| City Auditor | 326,580 | - | 326,580 |
| City Clerk | 457,205 | - | 457,205 |
| City Council | - | - | - |
| City Manager | 718,476 | 109,530 | 608,946 |
| Administrative Services | 3,037,227 | 704,037 | 2,333,190 |
| Human Resources | 979,751 | 553,666 | 426,085 |
| Community Services | 2,727,556 | 4,248,112 | (1,520,556) |
| Fire | 8,270,588 | 7,400,866 | 869,722 |
| Library | 843,456 | 967,930 | (124,474) |
| Planning and Community Env | 2,573,192 | 1,526,574 | 1,046,618 |
| Police | 14,280,055 | 10,242,902 | 4,037,153 |
| Public Works | 6,522,643 | 3,394,725 | 3,127,918 |
| Non-Departmental | 2,883,887 | 1,915,928 | 967,959 |
| **Sub-Total** | **$ 44,796,326** | **$ 31,200,701** | **$ 13,595,625** |
| **Net Surplus/(Deficit)** | **$ (8,459,113)** | **$ 6,493,449** | **$ (14,952,562)** |

(1) This is a staff generated estimate based on CBRE's January 12, 2011 31-year analysis.

Purpose of Development Agreements

The California Planning and Zoning Law authorizes cities to enter into "development agreements" which grant certain rights to developers, typically in exchange for other benefits which cities otherwise do not have the police power to require. The scope of a development agreement is prescribed by State law. (Government Code section 65864-65869.5.) A development agreement has the effect of immediately vesting a developer's right to proceed under existing zoning and other local laws, without having to worry about later changes in those zoning requirements imposing expensive new requirements or preventing the project from proceeding. Development agreements are also generally needed for bond financing. The Government Code imposes various requirements on development agreements, including a requirement that each development agreement specify its duration. Additional background information on development agreements is contained in Attachment A.

Development Agreement Negotiations

Based on preliminary input from the Council and the public, Staff proposed four major guiding principles governing negotiation of specific deal terms (CMR 197:10):

1. Minimize fiscal impacts to the City. Ensure that the project does not have a negative fiscal impact on the City through focusing, among other things, on revenue guarantees and robust analysis of long term project expenses.

2. Require project mitigation. Ensure that zoning ordinance and Conditions of Approval adequately address all project mitigations. Ensure that the General Fund is not unfairly burdened with long term impacts of project.

3. Preserve community health care. Ensure that local benefits of hospital and clinics will be retained, while transitioning towards greater world class hospital status.

4. Enhance City infrastructure. Recognize mutual interest in preserving high standard of economic and community vitality. Partner with Stanford to fund the long-term infrastructure needs of the community (capital programs, housing, transportation, broadband).

On January 18, 2011, Stanford submitted an updated Development Agreement proposal to the City (Attachment A). On January 31, 2011, the Council reviewed the revised proposal and indicated general support for the direction the agreement was taking and preliminary review schedule for the project. Council input and questions received have informed staff during continuing negotiations with Stanford, focusing on the following areas:

1. Minimizing fiscal impacts to City by including a revenue guarantee or other assurance that maintains service cost neutrality for the City of Palo Alto. This should include an inflationary factor ensuring that the project does not deplete city services in the long term and is not subsidized with existing city revenues.

2. Maintaining maximum flexibility in terms of how the Health Care, Housing and Community Improvement and Climate Change/Sustainable Communities funds are expended and defining a clear and understandable funding schedule.

3. Ensuring that Transportation Demand Management (TDM) mitigations are feasible, measureable and enforceable. Growing concerns over the long term future of Caltrain require that the mitigation measure and TDM program have sufficient flexibility to adjust for any program changes made to current Caltrain operations. (See Attachment D for a comprehensive discussion of the proposed TDM program.)

## DISCUSSION

Draft Development Agreement

Development agreements are mutually agreeable contracts and thus the parties have broad latitude on negotiating terms. At a minimum, however, State law requires a Development Agreement to specify the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. In addition, it is typical for a development agreement to include a package of community benefits in exchange for the vested rights conferred.

Summary of Terms of Agreement

A Draft Development Agreement is included as Attachment B and is annotated to show the areas that still need to be resolved. Subject to final approval by the Council, the respective negotiating teams have reached agreement on most of the principle terms of the agreement as well as the major scope of the community benefit package. Unfortunately, there are outstanding issues that, contrary to our expectations, staff has been unable to resolve. Below is a discussion of the key terms of the agreement as well as the proposed community benefits:

**1. Duration of Agreement (Section 18(a))**: The basic term of the Agreement is 30 years; however, there are certain obligations that are longer. These longer provisions include the indemnity provision and maintenance of the TDM program. The term of the Development Agreement establishes the length of time which the Council agrees to lock in the existing zoning and development regulations, thereby relinquishing future Council's land use authority over the property. By providing this land use certainty, the applicant is able to secure more favorable financing terms, significantly driving down the costs of the overall project. A thirty year term exceeds the terms of other City Development Agreements, but given the scope and nature of this project, staff believes the extended term is warranted.

**2. Permitted and Conditionally Permitted Uses (Section 6(b)):** The permitted uses of the Property will be set forth in the Hospital District zoning ordinance, which is being drafted for the project and would be reviewed by Council in mid May. In general, hospital, clinic and school of medicine uses will be permitted subject to a conditional use permit.

**3. Maximum height and density (Section 6(c)):** The height and density of the buildings will be set forth in the Hospital District zoning ordinance. In general, the Hospital District will contain a 130 feet height limit, 40% site coverage and a maximum Floor Area Ratio of 1.5 to 1.
Reservation of Easements (Section 6(n)): With the exception of easements for City owned public utilities, the City will not require any easements for park or open space or other public facilities.

**4. Payment of Fees (Section 8(b)):** Applicants will pay all processing and permit fees in accordance with the rates in effect at the time the fee is due. With respect to existing Development Impact Fees (i.e. housing, transportation and community facilities), the proposed agreement has an incentive for pre-payment by providing that all fees paid prior to December 31, 2011, would be subject to the rates in effect at the time the agreement is signed. All impact fees paid between December 31, 2011 and December 31, 2019 would be subject to a CPI-U adjustment for the San Francisco-Oakland-San Jose (CMSA). Finally all fees paid after December 31, 2019 would be at the rates in effect at the time of payment, thus providing a disincentive for deferring payment of impact fees. The project would be exempt from new Development Impact fees until 2019.

**5. Indemnity (Section 9):** The SUMC Parties will indemnify the City in the event that a legal action is brought by a third party to set aside any of the project approval. In addition, the SUMC will pay for the City's reasonable costs of defending such an action.

**6. Periodic Review (Section 12):** The SUMC Parties will file an Annual Report describing their progress on the Project and demonstrating compliance with the Development Agreement. In addition, the City shall submit a supplement to the Annual Report containing an accounting of all funds received under the Development Agreement. The Planning Department will be the lead on this task with Administrative Services assisting in validating information.

Summary of Community Benefits and Project Mitigations

**Health Care Benefit**
1. In-patient and Out-patient benefits: Payment of $300,000 per year for a period of ten years for health care services not currently provided for a total of $3.0 million. These payments are to be specifically used for Palo Alto low income residents.

2. Community Health Programs: One-time payment of $4,000,000 to be used for community based health and wellness programs. This will be paid 45 days after the effective date of the Development Agreement.

**Reduced Vehicle Trips**
1. Stanford Hospitals will provide Go Passes to its hospital employees. Their estimated cost of this mitigation is $90,907,500 over 51 years. The parties have mutually worked out a TDM program that will provide for alternate TDM measures and/or penalties in the event an

aggressive 35.1% alternative mode share is not achieved or Caltrain service is eliminated as a result of ongoing financial difficulties.

2. To address the enhanced Go Pass program, SUMC will purchase and operate four new Marguerite shuttles to support service to and from the train station. The capital and operational cost over 51 years is $24,950,000.

3. Stanford will provide a permanent TDM Coordinator at the Hospitals in an amount of $5,100,000 over 51 years.

4. The Hospitals will contribute to AC Transit to address potential capacity issues caused by the project and will lease parking spaces at Ardenwood Park and Ride to encourage employees of the hospital to use AC Transit and other transit options. The total cost of these additional transit measures are $5,095,000.

**Linkages**

Stanford will fund various City improvements to enhance the pedestrian and bicycle connections, including enhanced pedestrian and bicycle connection for the Intermodel Center to El Camino Real and Quarry; improvements to the ROW to enhance pedestrian and bicycle connection from west side of El Camino to Welch Road along Quarry Road, and improvements to enhance the pedestrian connection between the Medical Center and the Stanford Shopping Center in the area of the Barn. The total cost of these linkages is $3,350,000

**Infrastructure/Housing**

Stanford will provide $23,060,490, of which approximately $2,000,000 represents the housing fee required for the clinics and the balance to be used by the City for other sustainable neighborhood and community development and affordable housing programs. This fund could be used for a wide variety of important infrastructure projects. This payment will be made in three equal installments timed to the construction phases.

**Climate Change/Sustainable Communities**

Stanford will make a contribution of $12,000,000 paid in three equal installments for use in projects and programs for a sustainable community also timed to the construction phases.

**Fiscal**

1. Stanford will provide a payment to address the projected deficit of the project as analyzed by ADE. The deficit is a result of the gap between City revenues and expenditures generated by the project over time. As discussed below, the amount of the payment has not yet been established. Staff is meeting with Stanford and may have recommendations at the Committee meeting in regard to resolution of the fiscal impact issues.

2. In addition Stanford will obtain a Use Tax Direct Payment Permit which will result in $750,000 over the life of the project.

Note that the City and Stanford differ in their valuation of the total benefit package in that Stanford characterizes some of the required mitigations as community benefits. While they are, in fact, mitigations, City staff recognizes that the bulk of the mitigations also have an overall community benefit. Likewise many of the community benefits enhance the overall project. In total, City staff has valued the total community benefit package to be approximately $42,300,000 (without a revenue guarantee) and Stanford has valued it to be $173,452,500. (See Exhibit E.)

Areas of Disagreement

Staff has continued meeting with SUMC representatives and has made progress on finalizing the details of a Draft Development agreement. Unfortunately, there are still a few key provisions that are unresolved. They are:

1. Agreement on a Cost Neutrality assurance that complies with Council direction.
2. Agreement on a tentative project phasing schedule to ensure that revenues cover expenses.

**Cost Neutrality Agreement**

One of City staff's primary goals has been to assure that the Project is cost neutral to the City. This goal is important for several reasons. First, one of Council's major goals has been economic sustainability. Going forward, Palo Alto must not only control costs, but with limited revenue generating capacity, the City must ensure that private development is self-sustainable. It is imperative that anticipated revenues generated from a large development project cover the City expenses necessary to service the project.

Secondly, unlike most commercial development in the City, the majority of the SUMC development will be exempt from property tax due to its non-profit status. Property taxes represent an ongoing, relatively stable, and important revenue source to the City. Although there is an ongoing, incremental annual sales tax stream from the project through direct and indirect spending, it is somewhat nominal (one-time use taxes from construction are discussed below) compared to ongoing costs. On the other hand, the Project is expected to add approximately 2,417 full and part-time employees (not counting construction workers) and 210 average daily patients (not including visitors) which in turn will require additional community resources. While cities at one time may have had revenue available to subsidize a portion of these costs, that is no longer the case in this era of budget cuts and service reductions. This is exacerbated by the fact that Palo Alto has approximately $500 Million in infrastructure needs.

Construction Use Tax

Stanford has offered to require its contractors to obtain the appropriate Use Tax permits to maximize the allocation of Use Tax to the City, rather than to the County pool. Unfortunately, this does not assure that the Contractors will in fact properly report and pay Use tax, nor that the Use Tax will materialize at the levels predicted. Further, this does not provide any revenue stream predictability and makes it very difficult for the City to budget. Again, because the

project is exempt from Property Tax and is highly dependent on Use Taxes to cover expenses, a guarantee of these revenues is essential to keeping the Project cost neutral. Without a revenue guarantee, the projected deficit will increase by the revenues not realized.

City's Approach: Partial Revenue Guarantee Based on Project Projections
In light of these factors, City staff recommends that the Development Agreement contain a Cost Neutrality provision that has the following elements:

1. Guarantees the three primary sources of revenue that are most directly within Stanford's control – construction use tax, operating use tax and on-site sales tax. The projected total for these three revenues sources is approximately $12.4 million.

2. Provides for an upfront payment to fund the operating deficit caused by projected revenues falling short of projected expenditures.

3. Escalates the revenues by appropriate indices to account for inflation.

4. Each quarter the projected amounts would be compared to actual amounts; then annually if the total amount does not meet the projected amount plus any annual CPI increases, SUMC would be responsible for funding the deficit.

5. Periodic monitoring over the life of the Project to determine whether revenues are covering expenses and if not an adjustment to the guarantee.

Staff's approach is largely modeled after a similar project, the recently approved PAMF facility in San Carlos. Staff acknowledges that this approach does not guarantee all of the revenue projected by either fiscal consultant nor does it completely account for inflation. The largest and most variable revenue source is construction use tax which is estimated by the fiscal studies at approximately $8 million. Without this revenue source, projected revenues will fall <u>far short</u> of covering projected costs. This source is largely within Stanford's control as they are uniquely positioned to require their contractor's to obtain necessary permits to allocate the use tax to the City. Also, the tax estimate was based on a construction budget provided by Stanford and is completely outside the control of the City. Significant changes to the construction budget could severely impact these revenues. Finally, because the City's approach applies a modest inflation factor which does not entirely align with the City's projected labor costs, staff is also recommending periodic monitoring of revenues and expenses to ensure cost neutrality over the life of the project.

Stanford has objected to this approach for two major reasons. First, they are concerned that if the construction phasing is pushed out or the construction budget shrinks, Stanford would end up over paying. In response, staff believes that if construction were bumped out, the other revenue sources dependent upon construction may not materialize either, so the guaranteed revenue source becomes even more important to ensure stable budgeting for City resources needed to service the Project. Second, Stanford has objected to this guarantee on the grounds

that if the State were to re-allocate the Use Tax from local agencies to the State, Stanford would be subject to "double taxation" with the guarantee.

Stanford's Approach: Up Front Payment with No Revenue Guarantee

Stanford has proposed an alternative approach to the City's Cost Neutrality proposal. Initially, Stanford's last offer made to the Finance Committee involves a lump sum up front payment of $1.7 Million to offset the initial deficit predicted by the City's fiscal consultant ADE. (Attachment F.) As this proposal was made before Stanford adjusted the phasing schedule and before ADE performed its extended analysis, it does not cover ADE's current projected operating deficit of $8.46 million. Further, while this proposal partially addresses the overall operating deficit of the project it does not assure that all of the revenues predicted by the fiscal consultants are achieved. Stanford's offer partially accounts for inflation, but is still insufficient to fully mitigate the 30 year inflated deficit projected by ADE.

Inflation Analysis

Because of the long term nature of the Project several council members have raised a concern about inflation. To address this concern, ADE ran an inflation sensitivity analysis. ADE's March 2011 inflation analysis is included as Attachment C. This analysis inflates revenues by various indexes and inflates labor costs by 4.5%, the projection used in the City's Long Range Financial Forecast. As discussed in more detail in the City's Long Range Financial Forecast, attempting to forecast inflationary trends far out into the future is dependent upon a variety of factors. Macro economic events such as recessions, federal deficit spending, and international supply and demand for commodities such as oil can have immediate and dramatic effects on inflation. In short, inflation trends cannot be predicted with certainty. However, the inflation sensitivity analysis is instructive in showing that over time it is more likely that expenses will significantly outpace revenues:

**Table 2**

**SUMC Fiscal Analysis Summary with Inflation**

**March 7, 2011**

| | **2011** | **2017** | **2029** | **2041** |
|---|---|---|---|---|
| Revenues | $ 1,144,201 | $ 1,986,394 | $ 1,110,445 | $ 1,463,942 |
| Expenditures | - | 1,147,107 | 2,217,563 | 3,539,721 |
| Annual Net Revenues/(Costs) | 1,144,201 | 839,286 | (1,107,108) | (2,075,779) |
| **Cumulative Net Revenue/(Costs)** | **$ 1,144,201** | **$ 7,259,731** | **$ (210,485)** | **$ (19,244,486)** |

**Project Phasing and City Expenses**

Other key issues are timing of the project and predictability of potential revenues, budgeting for new expenses and timing of impact fees. Staff has proposed that a Project Phasing Schedule be added to the Development Agreement that, with some limited predictability, allows the City to determine when new revenues will begin and when to anticipate budgeting for new expenses. Stanford has requested flexibility in project phasing. Resolution of this issue is largely dependent upon the terms of a cost neutrality agreement. Staff recommends that a reliable revenue stream be identified before employment is added and expenses incurred.

## ENVIRONMENTAL REVIEW

Prior to acting on the entitlements for the Project, the Council must certify the Final Environmental Impact Report (EIR). A hearing on certification of the Final EIR for this Project is scheduled for mid-May.

## NEXT STEPS

As the lead agency, the City of Palo Alto must certify the Final EIR before action can be taken on the SUMC Project. Certification requires that the lead agency make findings that the Final EIR complies with CEQA. The City Council will be considering the Final EIR at a public hearing in mid-May 2011.

Additionally, the ARB is continuing their review of the architectural design of the SHC, LPCH, SoM FIM 1, Hoover Pavilion renovation, Hoover Pavilion medical office building and parking garage, Design Guidelines and Durand Way/Welch Road improvements. They will be making a recommendation to the City Council on each of these components of the Project.

In early May 2011, the Commission will be reviewing the proposed Comprehensive Plan amendments, the new Hospital Zone district, changes to the zoning ordinance, annexation, conditional use permit and Development Agreement terms. The Commission will make a recommendation to the City Council on each of these project components.

The City Council will be considering the recommendations from the ARB and the Commission at a meeting now scheduled for June 6, 2011. At this meeting it is expected that the Council will certify the Final EIR and act on the requested entitlements.

**Attachments:**

- Attachment A: CMR# 1283. January 31, 2011 (PDF)
- Attachment B: Draft Development Agreement, 3/9/11 (PDF)
- Attachment C: ADE Inflation Based Fiscal Analysis (PDF)
- Attachment D: TDM Program, March 2, 2010 (PDF)
- Attachment E: Analysis of Dev. Agreement Proposal (PDF)
- Attachment F: SUMC Palo Alto Cost Neutrality (PDF)

| | |
|---|---|
| Prepared By: | Steven Turner, Advance Planning Manager |
| Department Head: | Curtis Williams, Director |
| City Manager Approval: | James Keene, City Manager |

Attachment A

# City of Palo Alto
## City Council Staff Report

(ID # 1283)

**Report Type: Study Session** **Meeting Date: 1/31/2011**

**Council Priority:**

**Title: SUMC Mitigation Measures & DA Update**

**Subject: Review of the Stanford University Medical Center Facilities Renewal and Replacement Project Mitigation Measure Cost Analysis, Community Benefit Proposal and Draft Development Agreement**

**From: City Manager**

**Lead Department: Planning and Community Environment**

## RECOMMENDATION

Staff recommends that the City Council review and comment on the Stanford University Medical Center (SUMC) cost analysis of certain project mitigation measures and review the current Community Benefit Proposal in connection with the requested SUMC Development Agreement.

## BACKGROUND

The Stanford University Medical Center (SUMC) comprises the general area between Sand Hill Road, Vineyard Lane, Quarry Road, Pasteur Drive, and including Welch Road and Blake Wilbur Drive. The Project applicant is proposing the demolition of the existing Stanford Hospital and Clinics (SHC) at 300 Pasteur Drive, construction of a new hospital building, renovation and expansion of the Lucile Packard Children's Hospital (LPCH), reconstruction of the School of Medicine (SoM) facilities, and construction of a new medical office building near Hoover Pavilion. The Project is intended to meet State mandated seismic safety standards (SB 1953) and to address capacity issues, changing patient needs and modernization requirements. SB 1953 requires hospitals to retrofit or replace noncompliant facilities. Previous legislation required retrofitting by January 1, 2013, but recent legislation has now extended the compliance deadline for Santa Clara County hospitals to 2018.

### SUMC Project Summary

The renovation and expansion project, which would be constructed over a 15-year period, would result in a new increase of approximately 1.3 million squares of hospital, clinic, and office space. The project includes a request for the following entitlements:

- Comprehensive Plan amendments to:

- Change 701, 703 Welch Road and a small portion of Santa Clara County land on Welch Road proposed to be annexed to the "Major Institutional/Special Facilities" land use designation.
- Amend Program L-3 to revise the citywide 50-foot height limit to allow exceptions for taller buildings within the proposed "Hospital District."
- Amend Policy L-8 to clarify that the hospital and treatment uses are exempt from the development cap.

- Zoning Code and Map amendments to:
  - Create a new "Hospital Zone."
  - Rezone 701 and 703 Welch Road from Medical Office and Research (MOR) to the new "Hospital Zone."
  - Prezone the site to be annexed to the City to the new "Hospital Zone."
- Annex the small parcel described above.
- Architectural Review Board (ARB) review of the SHC, LPCH, FIM1, medical office building at Hoover Pavilion, and Design Guidelines.
- Approval of a Development Agreement
- Certification of an Environmental Impact Report

**SUMC Project Evolution and Analysis**

The project applicant has submitted nine substantive project amendments with the most recent amendment submitted on March 25, 2010. In addition, SUMC has also made changes based upon City staff analysis and ARB, Planning and Transportation Commission (Commission) and City Council input. These changes include significant modifications to site planning and building massing, revisions to the location of parking garages and site access for automobiles, refinements to the pedestrian and bicycle network to promote stronger linkages and connections, and changes to building placement and design to protect significant oak tree specimens.

On May 20, 2010, the SUMC Facilities and Renewal and Replacement Project Draft Environmental Impact Report (DEIR) were released for public review and comment. The DEIR identified several environmental impacts that could not be mitigated, including transportation, air quality, climate change, noise, cultural resources, and biological resources (protected trees). Extensive public hearings were conducted on the DEIR, the comment period has closed and the City is finalizing its response to comments. The Final EIR is expected to be released in early February.

As part of the entitlement process for the project the City and SUMC agreed to complete a Fiscal Impact Analysis. SUMC contracted with CBRE Consulting/CB Richard Ellis, Inc. (CBRE) to conduct their fiscal impact analysis and agreed to fund a peer review using a City-selected fiscal impact consultant. The City completed a formal RFP process and Applied Development Economics (ADE) was selected to conduct the peer review. CBRE and ADE have both completed their independent fiscal reviews of the SUMC project.

On April 6, April 13, April 28, and May 24, 2010 City staff presented and received comments on

the SUMC Fiscal Impact Analysis (CMR 196:10; Attachment A) and the Development Agreement Proposals (CMR 197:10: Attachment B) from the Finance Committee, Policy and Services Committee, Planning and Transportation Commission and City Council, respectively. Since that time, City staff has continued to meet with SUMC representatives to determine the cost related to certain project mitigation measures where the City may incur a fiscal impact, and to negotiate a draft Community Benefits Package that is tied to the Development Agreement. On January 18, 2011, SUMC submitted to the City a revised proposal outlining key terms of its offer in the Development Agreement (Attachment D).

## DISCUSSION

### Mitigation Measure Cost Analysis

The Draft EIR identified a comprehensive list of potentially significant adverse environmental impacts and mitigation measures for each impact. Where applicable, SUMC and City staff have identified the cost related to a mitigation measure (An estimated cost of the mitigation measures is summarized in Attachment C and supplements the fiscal studies prepared earlier and discussed below). The DEIR examines both project specific and cumulative impacts, i.e. those impacts caused by the project and other reasonably foreseeable projects. SUMC is 100% responsible for mitigating all project impacts, but, in general, SUMC is only responsible for mitigating its portion of the cumulative impacts. The portion of the mitigation cost that SUMC is responsible for is referred to as their "fair share" and in those cases, the City, another agency, or future development is responsible for the unfunded portion. The City and SUMC collectively prepared a mitigation measure cost estimate and "fair share" allocation and that data are summarized in Attachment C to the Staff Report, which supplements the Fiscal impact Reports, lists those mitigation measures, their cost and any unfunded portion that the City is responsible for funding.

The City and SUMC have continued to discuss the issue of mitigation vs. community benefit and City staff does agree that some of the required mitigations will not only mitigate potential environmental impacts, but will also provide a long term community and in some cases regional benefit. The analysis indicates that SUMC is responsible for a total of $17.7 million in capital or one-time cost; $2.5 million in estimated annual cost which are projected to total approximately $129.6 million over the useful life of the project or 51 years for a combined total of approximately $147.3 million. The City share of unfunded mitigation cost is approximately $5.8 million, which includes the cost of the Everett Undercrossing, El Camino Real and Page Mill Road right turn lane and the cost of Opticom installation for traffic signals. It should be noted that both the Everett Undercrossing and the Opticom installations are included as part of the Citywide Transportation Impact fee.

### Fiscal Report Summary

Long-term fiscal consequences are an essential part of the consideration when reviewing large projects. While new development can bring economic benefits to the City, it also potentially brings new residents, employees, and uses that will place incremental demands on local services, such as police, fire protection, community services, libraries, planning, public works and utilities; as well as impacting City administrative functions. Anticipating and evaluating the

associated fiscal impacts of new development ensures that the City does not extend services or infrastructure in a way that becomes too much of an economic burden on existing limited resources. In addition, this analysis helps formulate funding strategies for community facilities and infrastructure as well as any potential additional mitigation costs.

A fiscal impact analysis can also be used to compare the fiscal costs of alternative approaches to a development. If a project is not fiscally revenue neutral or sustainable but meets community goals, the analysis may suggest the need for additional revenues or a Development Agreement that provides supplemental funding to cover costs related to the development.

***Fiscal Impact Analysis***

As previously reported to the City Council, the fiscal analysis prepared by CBRE indicates that the potential tax and fee revenues that will be generated by the SUMC project should be sufficient to fund the anticipated costs of providing municipal services to the projects (Table 1). This includes taxes generated by increased Sales and Use Tax, Property Tax, Transient Occupancy Tax, Utility Users Tax and other taxes and fines, such as Motor Vehicle In-Lieu and Fines and Penalties. The analysis used a time horizon of thirty years or 2010 through 2040 to be consistent with some of the key aspects of the proposed Development Agreement. CBRE's dynamic analysis finds that over the 30-year time horizon the SUMC project will net the City General Fund cumulative net surplus totaling $7.6 million. This reflects total cumulative revenues of $25.1 million and total cumulative expenses of $17.5 million. In contrast, the peer review completed by ADE indicates that cumulative revenues of $23.9 million and cumulative expenses are projected to be $25.0 million, leaving a total net deficit of $1.1 million.

Table 1

Comparative Fiscal Analysis of Stanford University Medical Center Project

Annualized Projection of Fiscal Impacts 2010-2040 (30 Years)

| | ADE Analysis | CBRE Analysis | ADE minus CBRE |
|---|---|---|---|
| **Item** | **Total Projected** | **Total Projected** | **Difference** |
| **General Fund Revenue** | | | |
| Sales Tax | | | |
| SUMC Direct Purchasing | $ 1,042,942 | $ 909,129 | $ 133,813 |
| SUMC Facilities On-site sales | 3,332,654 | 3,433,703 | (101,049) |
| SUMC Employee Spending | 1,456,838 | 1,459,148 | (2,310) |
| SUMC Overnight Visitor Spending | 7,392 | 9,688 | (2,296) |
| Construction Related Purchasing | 8,148,416 | 8,148,416 | - |
| Construction Worker Spending | 16,303 | 112,426 | (96,123) |
| Property Tax | 1,307,153 | 1,681,451 | (374,298) |
| Transient Occupancy Tax | 151,441 | 182,806 | (31,365) |
| Utility Users Tax | 7,358,175 | 7,978,522 | (620,347) |

| | | | |
|---|---|---|---|
| Other | | | |
| Motor Vehicle In-Lieu Fees | 318,822 | 410,502 | (91,680) |
| Fines and Penalties | 799,701 | 799,680 | 21 |
| **Sub-Total** | **$ 23,939,837** | **$ 25,125,471** | **$ (1,185,634)** |
| **General Fund Expense** | | | |
| City Attorney | 657,032 | 76,516 | 580,516 |
| City Auditor | 182,506 | - | 182,506 |
| City Clerk | 255,506 | - | 255,506 |
| City Council | - | - | - |
| City Manager | 401,516 | 61,430 | 340,086 |
| Administrative Services | 1,697,328 | 394,852 | 1,302,476 |
| Human Resources | 547,525 | 310,518 | 237,007 |
| Community Services | 1,524,268 | 2,382,512 | (858,244) |
| Fire | 4,621,942 | 4,150,700 | 471,242 |
| Library | 471,360 | 542,854 | (71,494) |
| Planning and Community Env | 1,438,004 | 856,165 | 581,839 |
| Police | 7,980,281 | 5,744,628 | 2,235,653 |
| Public Works | 3,645,120 | 1,903,898 | 1,741,222 |
| Non-Departmental | 1,611,635 | 1,074,530 | 537,105 |
| **Sub-Total** | **$ 25,034,023** | **$ 17,498,603** | **$ 7,535,420** |
| **Net Surplus/(Deficit)** | **$ (1,094,186)** | **$ 7,626,868** | **$ (8,721,054)** |

***Revenue Estimates***

The analysis indicates differences in total revenues of approximately $1.1 million over the thirty year time horizon. There are significant deviations in the areas of Property Tax and Utility Users Tax, however the total difference averages approximately $39,521 per year and this does not rise to a level of significance. After discussion with the consultants, City staff feels most of this can be attributed to the timing of Property Tax projections and potentially better project related information being provided to CBRE by SUMC in terms of utility consumption projections.

Of major concern to City staff is that the analysis includes significant projections of Sales Tax and Use Tax collected during project construction and over the proposed development agreement; a total of $14.1 million or approximately 56% of all projected revenues. The California State Board of Equalization (SBOE) administers local taxes under the *Bradley-Burns Uniform Local Sales and Use Tax Law*, and district taxes under the *Transition and Use Tax Law*, both of which are governed by California Revenue and Taxation Code section 72000 et. Seq.

A large portion of the revenue projections are attributable to Use Tax. To collect these revenues the following actions must occur:

- Stanford University would obtain a California Seller's permit and report the Sales and Use Tax information to the SBOE
- At least 80% of all contracts and subcontracts will need to be greater than $5.0 million, thus qualifying for a seller's sub-permit
- Under Stanford's permits all qualifying contractors and sub-contractor will voluntarily obtain seller's sub-permits for the SUMC construction site and report the required Sales and Use Tax information

If these actions do not occur the Use Tax would flow to the County of Santa Clara tax pool and the City would receive a significantly smaller share. In addition, to obtain revenues in future years, SHC and LPCH will both need to obtain direct pay permits and certificates to report and pay sales and use tax on qualifying direct purchases.

Admittedly these are complex and time consuming processes with serious implications if the revenue projections do not become reality. This short fall could potentially change CBRE's projected revenues from a total of $25.1 million to $11.0 million, resulting in a projected deficit of $6.4 million and not a $7.6 million surplus.

***Expense Estimates***

The City costs in both the CBRE and ADE analysis are calculated on an average cost basis, meaning that the costs allocated to the proposed project are the same per employee as existing non-residential uses in the City. The analysis in Table 1 indicates that there is a significant difference in the determination of long term expenses. CBRE has calculated that project related City expenses for the thirty year time horizon is approximately $17.4 million, whereas ADE has calculated the expense to be approximately $25.0 million. City staff understands that this difference is due to CBRE's assumption that certain portions of City services are fixed and not subject to increase as City service demands increases. Overall CBRE has estimated that approximately 49% of all City service cost is subject to this cost limitation, ranging from 100% of the costs for City Auditor and City Clerk to 20% of Fire Department costs. This limitation has resulted in a 2010-2040 cost projection that is approximately 48% of the ADE estimate. While administrative departments may grow at a slower rate compared to other departments, the assumption that there is no connection between demand for services and the need for additional administrative functions is not plausible. Using a best case vs. worst case scenario, and believing that actual expense may be somewhere in the middle of the two analyses, or approximately $23.1 million; the projected surplus in the CBRE analysis could be overstated by approximately $5.5 million.

***2011 Fiscal Update***

Given the several changes to Stanford's original project application as well as the changed economic climate, the City requested CBRE to update its analysis. On January 18, 2011 the City received an updated Fiscal Analysis from SUMC's fiscal consultant CBRE. Their updated fiscal analysis indicates that the potential tax and fee revenues generated by the SUMC project remain sufficient to fund the anticipated costs of providing municipal services to the projects (Attachment F). This includes taxes generated by increased Sales and Use Tax, Property Tax,

Transient Occupancy Tax, Utility Users Tax and other taxes and fines, such as Motor Vehicle In-Lieu and Fines and Penalties. The updated analysis used a time horizon of thirty years or 2011 through 2041 to be consistent with some of the key aspects of the proposed Development Agreement. CBRE's analysis continues to show that over the 30-year time horizon the SUMC project will net the City General Fund a cumulative net surplus totaling approximately $7.6 million. This reflects total cumulative revenues of $24.1 million and total cumulative expenses of $16.4 million. Compared to the prior fiscal analysis, projected revenues have decreased by approximately $997,109 and projected expenses have decreased by $1,056,198. These changes are attributed to:

1. Entitlement at the beginning of 2011 and construction commencing immediately thereafter
2. The 60,000 square foot new medical office building developed on the Hoover Pavilion site has been shifted from Phase I to Phase II construction, and
3. The timing of phases has been shifted modestly, with Phase I now represented as 2011-2017 (previously 2009-2015) and Phase II now represented as 2018-2025 (previously 2016-2025).

According to the updated CBRE analysis, these changes mostly resulted in modifications to the years clustered about the ending of Phase I and the beginning of Phase II. In addition some development in Phase II was pushed out a few years, which impacted the timing of phased employment during Phase II (Attachment G shows the comparison between CBRE's 2011 and 2009 reports).

City staff and SUMC have been meeting for over a year and have continued to discuss the revenue guarantee concept, however in the current offer letter from SUMC; they have proposed a one-time payment of $1.1 million rather than the revenue guarantee that has been discussed in negotiations. The onetime payment is the difference between ADE's total projected revenue projections and total projected expenses in the Fiscal Analysis.

Based on the importance of achieving the projected revenues responsive to the underlying Council directed requirement of insuring that the project is revenue neutral, City staff believes that a revenue guarantee on certain portions of the Direct Sales Tax and Construction Use Tax revenues must be included in the proposed development agreement. City staff believes that a revenue guarantee is more responsive to economic cycles and protects the City's long term interest. Also, since the project will largely be exempt from Property Taxes and does not generate significant sales tax, a revenue guarantee of the Use tax will help with local budgeting and provide a stable funding source over time. This is important as the revenues decrease in out years, while the expenses increase in response to completed construction. Finally, it would also be in the City's interest to have an inflation adjustment on future revenue, which would further offset the increasing costs of providing community services like police and fire.

## Development Agreement

### *Purpose of Development Agreements*

The California Planning and Zoning Law authorizes cities to enter into "development agreements" which grant certain rights to developers, typically in exchange for other benefits which cities otherwise do not have the police power to require. The scope of a development agreement is prescribed by State law. (Government Code sections 65864-65869.5.) A development agreement has the effect of immediately vesting a developer's right to proceed under existing zoning and other local laws, without having to worry about later changes in those zoning requirements imposing expensive new requirements or preventing the project from proceeding. Development agreements are also generally needed for bond financing. The Government Code imposes various requirements on development agreements, including a requirement that each development agreement specify its duration.

Under their general police power, all cities have broad authority to negotiate agreements with any person or entity, including project applicants such as the SUMC Project sponsors. However, any such agreement must include a genuine exchange of benefits (known in legal terms as "consideration"), with the parties agreeing to a negotiated exchange of one or more benefits or concessions to which they are not otherwise entitled. No one party is entitled to dictate the terms of the deal – an agreement can only be reached when each party is adequately enticed by what the other party has to offer to be induced to enter into an agreement.

Under its police power, a city also has broad, unilateral authority to impose a large variety of conditions to ensure that a proposed development would mitigate its adverse effects (both environmental and non-environmental) and would pay for the necessary infrastructure needed to serve the development. Therefore, a city does not generally need to rely on any negotiated agreement with the developer applicant to impose such conditions. However, both the United States Constitution and California statutes (particularly the Mitigation Fee Act, known sometimes as "AB 1600") impose specific (although flexible) limitations on the types of conditions and exactions a city may impose on a particular development project. Under these limitations, courts have held that cities cannot use their land use approval authority to exact concessions from a developer applicant that have nothing to do with the impacts or needs of the proposed development itself; or, in other words, which have no "nexus" with the project. Thus, for example, a city cannot require a developer to build a new city hall in exchange for granting development entitlements. In addition to the requirement of "nexus," any exactions are also subject to a requirement of "rough proportionality." If a development project is only partially responsible for a particular public improvement, a city generally can only require the developer to pay its proportionate share of that improvement (subject to certain caveats and exceptions).

A development agreement provides one exception to these limitations: a city can negotiate with developers the concessions that exceed what the city could require under its police power (for example, concessions for which there is no nexus with the proposed development, or which exceed the "rough proportionality" requirement) in exchange for approving a

development agreement since development agreements provide a benefit to developers to which they are not otherwise entitled.

The Development Agreement sought by the SUMC Project sponsors would entitle them to proceed under, and rely upon, the zoning approvals granted by the City Council, if the City Council approves the SUMC Project. In approving the Development Agreement, the City Council would be effectively waiving its right (as well as the right of future City Councils) to later impose new or amended zoning or other legislative requirements or limitations on the SUMC Project. This waiver would exist for the duration specified in the Development Agreement. However, it should also be noted that, under general "vested rights" principles, once the SUMC Project is constructed, SUMC would have vested rights independent of the Development Agreement to continue to use its facilities for the purpose for which they were constructed. Thus, once the SUMC Project is constructed, even if the City were to later modify the applicable zoning, the SUMC hospital facilities could qualify as a "legal non-conforming pre-existing use" and could continue to operate notwithstanding any inconsistency with later-adopted zoning requirements (subject to certain caveats and exceptions).

**Community Benefit Proposal**

In exchange for a development agreement, City staff has been negotiating with Stanford on a mutually acceptable community benefit package. City staff recognizes that both Stanford Hospitals and Clinics and Lucile Salter Packard Children's Hospital provide substantial and important public benefits through operation of world-class health care facilities and provision of a Level 1 trauma center located in the City of Palo Alto. The Stanford School of Medicine provides substantial and important public benefits through research that will be translated into life-saving and life-enhancing medical treatments and procedures. These endeavors coupled with the Stanford University represent a significant economic center, via employment and revenue generating functions that serve not only the City of Palo Alto, but the entire county and parts of the State.

In addition to this overall public benefit and in exchange for the vested rights to develop the proposed project SUMC has agreed to provide the additional benefits described in Attachment D and also summarized in Attachment E. These community benefits have been placed in categories:

***Health Care Benefit***

- In-patient and Out-patient benefits: Payment of $300,000 per year for a period of ten years for a total of $3.0 million. These payments are to be specifically used for Palo Alto residents.
- Community Health Programs: One-time payment of $4,000,000 to be used for community based health and wellness programs.

***Reduced Vehicle Trips***

- Stanford Hospitals will provide Go Passes to its hospital employees. The estimated cost of this mitigation is $90,907,500 over 51 years. The parties have mutually worked out a

TDM program that will provide for alternate TDM measures and/or penalties in the event an aggressive 35.1% alternative mode share is not achieved or Caltrain service is eliminated.

- To address the enhanced Go Pass program, SUMC will purchase and operate four new Marguerite shuttles to support service to and from the train station. The capital and operational cost over 51 years is $24,950,000.
- Stanford will provide a permanent TDM Coordinator at the Hospitals in an amount of $5,100,000 over 51 years.
- The Hospitals will contribute to AC Transit to address potential capacity issues caused by the project and will lease parking spaces at Ardenwood Park and Ride to encourage employees of the hospital to use AC Transit and other transit options. The total cost of these additional transit measures are $5,095,000.

***Linkages***

- Stanford will fund various City improvements to enhance the pedestrian and bicycle connections, including enhanced pedestrian and bicycle connection for the Intermodel Center to El Camino Real and Quarry; improvements to the ROW to enhance pedestrian and bicycle connection from west side of El Camino to Welch Road along Quarry Road, and improvements to enhance the pedestrian connection between the Medical Center and the Stanford Shopping Center in the area of the Barn. The total cost of these linkages is $3,350,000

***Housing/Infrastructure***

- Stanford will provide $23,060,490, of which $2,050,000 represents the housing fee required for the clinics and the balance to be used by the City for other affordable housing programs and/or sustainable neighborhood and community development. This payment will be made in three equal installments.

**Climate Change/Sustainable Communities**

- Stanford will make a contribution of $12,000,000 paid in three equal installments for use in projects and programs for a sustainable community.

***Fiscal***

- Stanford will provide a payment of $1,100,000 to address the projected deficit of the project over 30 years as analyzed by ADE.
- In addition Stanford will obtain a Use Tax Direct Payment Permit which will result in $750,000 over the life of the project.

Note that the City and Stanford differ in their valuation of the total benefit package in that the City characterizes some of the community benefits as required mitigations. However, City staff recognizes that the bulk of the mitigations also have an overall community benefit. Likewise many of the community benefits enhance the overall project. In total, City staff has valued the total benefit package to be approximately $50,918,035 (assuming a revenue guarantee) and Stanford has valued it to be $173,312,990 (See Attachment E). Note that Stanford has also

offered to make additional payments to Menlo Park above and beyond those required in the EIR (See Attachments C and D).

The SUMC project sponsors and City staff are still in the ongoing process of negotiating the terms of the Development Agreement itself. City staff has taken into account feedback and policy direction received from the City Council in negotiating those terms, and is attempting to negotiate terms consistent with the City Council's policy direction. City staff will continue to seek feedback from the Council as necessary throughout the process of negotiating the Development Agreement, including focusing on: a revenue guarantee, how to address updates to the City Fee Schedule and the overall phasing of the project and timing of the community benefit payments. Once the final terms are negotiated and a draft Development Agreement is prepared, there will be public hearings before both the Commission and the City Council to consider those terms. The Council may continue to provide policy direction at such hearings, and further amendments could be proposed and/or made as a result of feedback provided. The EIR has been designed to analyze the environmental effects of all foreseeable terms the Development Agreement might include, whether in the analysis of the SUMC Project itself, or in the analysis of the various possible alternatives. However, it is not anticipated that the any of the Development Agreement terms would result in physical environmental impacts beyond those disclosed in the Draft EIR.

Staff notes that the City is under no obligation to approve a development agreement as part of the entitlements for the Stanford project approval. In fact, City Council satisfaction with the Community Benefits package, as it determines the adequacy of the proposal, is a prerequisite to its decision to approve the Development Agreement.

**Development Agreement Terms Suggested But Not Recommended By Staff**

As part of the Development Agreement discussions, members of the Council, Commission, and the public suggested several issues to be explored in Development Agreement negotiations. Several of these issues have no direct relationship to the SUMC Project and involve a series of separate complicated policy decisions and negotiations that could delay decision-making on the SUMC Project. Subject to the City Council's approval, City staff is therefore recommending that these issues are better addressed outside of the SUMC Project process. In particular, comments were submitted that suggest the installation of an upstream retention basin, the use of Stanford Linear Accelerator Center (SLAC) as a backup power source, and fire services from the County of Santa Clara. The siting of an upstream retention basin on Stanford lands was not identified as a mitigation measure and can be addressed through the existing San Francisquito Joint Power Authority process. SUMC has indicated, however, that it is willing to include its commitment in the Development Agreement to participate in upstream solutions. Likewise, the use of the SLAC facility as a backup power source for the community has been a longstanding issue in the community and the City and Stanford are proceeding on a separate track to discuss a range of mutually beneficial solutions. As the SUMC Project plans contain backup generators and building permits are governed by OSHPD, this issue should not be tied exclusively to the SUMC Project. Lastly, the City and Stanford have a longstanding contract where the City provides fire services to Stanford-owned land in the County of Santa Clara.

Since the contract does not apply to the SUMC Project, City staff is recommending that any changes to the fire service agreement be negotiated as part of the existing contract renewal process.

## NEXT STEPS

City Council direction and input will be used as part of on-going Development Agreement negotiations between the City and SUMC. A specific date for completion of the Development Agreement has not been identified. The Development Agreement and Fiscal Report will be presented for more detailed review and recommendation by the Finance Committee and Policy and Services Committee in March.

The Final Environmental Impact Report (FEIR) is expected to be released in early February 2011. The Final EIR will contain responses to all comments received during the public review process. The Final EIR will also contain updates to the environmental analysis where necessary to respond to comments. The updated analysis may affect the mitigations required for the project. Changes to the mitigations could affect the costs associated with the mitigations. However, since the FEIR will be completed in early February, any revised mitigations and their associated costs will be factored into the Development Agreement negotiations. Public hearings on the FEIR are not required. The FEIR will be reviewed as part of the entitlement package by the Planning and Transportation Commission and the City Council.

The Architectural Review Board is expected to make its formal design review recommendations to the City Council after the release of the FEIR.

It is anticipated that the Planning and Transportation Commission would review the SUMC project design concurrently with the ARB. The Commission would also review the requested entitlements, including the FEIR, in March. The City Council would then provide its review and make a decision in April.

A tentative public meeting schedule for review of the SUMC project is contained in Attachment H.

**ATTACHMENTS:**

- Attachment A: CMR 196-10 (PDF)
- Attachment B: CMR 197-10 (PDF)
- Attachment C: SUMC Mitigation Summary with Major Fiscal Impacts (PDF)
- Attachment D: SUMC Development Agreement Proposal, January 18, 2011 (PDF)
- Attachment E: SUMC Development Agmt Proposal Comparison, January 31, 2011 (PDF)
- Attachment F: CBRE Consulting- Phasing-based Update to the SUMC Project Dynamic Fiscal Impact Analysis (PDF)
- Attachment G: Comparative Fiscal Analysis of SUMC Project Annualized Projection of Fiscal Impacts 2011-2041 (30 years) updated January 18, 2011 (PDF)

- Attachment H: Tentative Review Schedule (PDF)

Prepared By: Steven Turner, Advance Planning Manager

Department Head: Curtis Williams, Director of Planning and Community Environment

City Manager Approval: James Keene, City Manager

Attachment B

# DRAFT
# 3/9/11

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DEVELOPMENT AGREEMENT

Between

CITY OF PALO ALTO, a chartered city

and

STANFORD HOSPITAL AND CLINICS,
a California nonprofit public benefit corporation,

LUCILE SALTER PACKARD CHILDREN'S HOSPITAL AT STANFORD,
a California nonprofit public benefit corporation,

and

BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY, a body having corporate powers under the laws of the State of California

[NOTE: ADD TABLE OF CONTENTS TO COMPLETED DOCUMENT]

# DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (hereinafter "Agreement") is entered into as of this ___ day of _____, 2011, by and between the CITY OF PALO ALTO, a chartered city of the State of California ("City"), STANFORD HOSPITAL AND CLINICS, a California nonprofit public benefit corporation ("SHC"), LUCILE SALTER PACKARD CHILDREN'S HOSPITAL AT STANFORD, a California nonprofit public benefit corporation ("LPCH"), and THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY, a body having corporate powers under the laws of the State of California ("University," and together with SHC and LPCH, collectively, the "SUMC Parties").

## R E C I T A L S

THIS AGREEMENT is entered into on the basis of the following facts, understandings and intentions of the parties:

A. Definitions. These Recitals use certain terms with initial capital letters that are defined in Section 1 of this Agreement. City and the SUMC Parties intend to refer to those definitions when the capitalized terms are used in these Recitals.

B. Outline of Terms. Stanford Hospital and Clinics and Lucile Salter Packard Children's Hospital provide substantial and important public benefits through operation of world-class health care facilities and provision of a Level 1 trauma center located in the City of Palo Alto. The Stanford School of Medicine, which is part of Stanford University, provides substantial and important public benefits through research that will be translated into life-saving and life-enhancing medical treatments and procedures. To comply with the requirements of state law and to provide state-of-the-art medical and research facilities, the SUMC Parties intend to replace, retrofit and enhance their facilities in the City of Palo Alto. In conjunction with certain state-mandated retrofit and replacement work, the SUMC Parties also intend to expand their hospital, clinic and medical office facilities to meet patient demand. To facilitate this, the SUMC Parties have applied to the City for a development agreement pursuant to Sections 65864-65869.5 of the California Government Code and the City's Resolution No. 6597. Pursuant to this development agreement, the SUMC Parties would provide certain community benefits and voluntary mitigations measures. In exchange for these community benefits and voluntary mitigation measures, and in recognition of the substantial public benefits provided by the SUMC Parties' facilities and operations, the City would vest for a period of thirty (30) years the SUMC Parties' rights to develop and use their facilities in Palo Alto in accordance with the Project Approvals, and would streamline the process for obtaining Subsequent Approvals as described in this Agreement.

C. Nature and Purpose of Development Agreements. Development agreements were authorized by the State of California in 1979, through the adoption of Government Code Sections 65864-65869.5. These statutes authorize the parties to enter into binding agreements for the development of real property within the City. Because California has a "late vesting" rule, landowners usually cannot be certain that they can proceed with a development project until they have actually obtained a building permit and started building. This lack of certainty can discourage long range planning and investment and make it more difficult for cities to provide needed public facilities. A development agreement, in which a city agrees that, for a certain period of time, it will not change the rules applicable to a project, and the property owner agrees to assist with the provision of public facilities or to otherwise provide community benefits, can benefit all parties.

D. Authority for City Development Agreements. Pursuant to Government Code Section 65865, the City adopted Resolution No. 6597 establishing procedures and requirements for consideration of development agreements in Palo Alto.

E. Comprehensive Plan. In July of 1998, the City of Palo Alto adopted its current Comprehensive Plan, a document containing the City's official policies on land use and community design, transportation, housing, natural environment, business and economics, and community services. Its policies apply to both public and private properties. The Plan is used by the City Council and Planning and Transportation Commission to evaluate proposed land use changes in the City, including the adoption of this Agreement. It is intended to guide City land use decisions.

F. Property Interests. The University is the fee owner of certain Property. SHC leases from the University certain portions of the Property and operates the Stanford Hospital and Clinics, as well as medical offices thereon. LPCH leases from the University certain other portions of the Property, and operates the Lucile Salter Packard Children's Hospital thereon. A portion of the Property is occupied by the University's School of Medicine. A portion of the Property consisting of approximately 0.75 acres is in the unincorporated area of Santa Clara County. The balance of the Property is within the City of Palo Alto.

G. Seismic Safety Requirements. SB 1953 requires hospitals to retrofit or replace facilities that do not meet State-designated safety criteria by January 1, 2013. Further requirements must be met by 2030. If a hospital does not comply with these mandates, the State may revoke the hospital's operating license. On September 30, 2010, Governor Schwarzenegger signed SB 608, which will provide SHC with the ability to apply for up to five additional years for extensions to meet seismic requirements. If the extensions are granted, the legislation sets a new deadline of January 1, 2018. Effective January 1, 2011, SHC may apply for a three-year extension of the structural compliance deadline;

from January 1, 2013 to January 1, 2016. SHC may also be eligible for an additional two-year extension of the 2016 deadline, subject to certain patient safety criteria. The Office of Statewide Health Planning and Development is responsible for approving plans for construction work required by SB 1953.

H. Seismic Safety Project Components. Several buildings on the Property require structural retrofit or replacement to comply with SB 1953 and other applicable laws. Also, many of the facilities within the Property require nonstructural renovations or replacement to comply with SB 1953. Portions of the School of Medicine that currently occupy space in structures used for hospital purposes must be physically separated from those structures or replaced in order to comply with SB 1953 requirements. In addition, new or replacement hospital structures must meet current standards specified by the California building code for hospitals; compliance with these standards necessitates increased square footage and height to accommodate current seismic structural requirements, patient safety requirements, air handling systems and mechanical duct work.

I. Project Purposes. The City and the SUMC Parties desire that the Project is designed and constructed to achieve timely compliance with the requirements of SB 1953 and other applicable laws, to meet existing and projected future demand for patient care, to provide modern, state-of-the-art facilities designed to deliver high quality healthcare services and related teaching and research, and to meet regional needs for emergency and disaster preparedness.

J. Project Approvals. The SUMC Parties have applied for, and the City has certified or approved, as applicable, certain environmental documents and land use approvals and entitlements relating to the development of the Project. These actions are identified on Exhibit B.

K. Compliance with City Requirements. The City's Planning and Transportation Commission and City Council have given notice of intention to consider this Agreement, have conducted public hearings thereon pursuant to Government Code section 65867 and City's Resolution No. 6597, and have found that the provisions of this Agreement are consistent with City's Comprehensive Plan, as amended.

L. Binding Future Actions. This Agreement will bind future City Councils to the terms and obligations specified in this Agreement and limit, to the degree specified in this Agreement and as authorized under state law, the future exercise of City's ability to preclude development on the Property.

M. Elimination of Uncertainty. This Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property, eliminate uncertainty about the validity of exactions imposed by City, allow installation of necessary improvements, provide for public services appropriate to

the development of the Project, and generally serve the public interest, both within the City of Palo Alto and in the surrounding region.

N. Orderly Development. Development of the Project in accordance with this Agreement and the Project Approvals will provide for orderly development consistent with City's Comprehensive Plan. The terms and conditions of this Agreement have undergone extensive review by City staff, its Planning and Transportation Commission and the City Council, and have been found to be fair, just and reasonable. Specifically, the Planning and Transportation Commission and the City Council have found that:

1. The provisions of this Agreement and its purposes are consistent with the goals, policies, programs and standards specified in City's Comprehensive Plan;

2. This Agreement will help attain important economic, social, environmental and planning goals of City and enhances and protects the public health, safety and welfare of the residents of the City of Palo Alto and the surrounding region.

3. The SUMC Parties will incur substantial costs in providing community benefits, including voluntary mitigation, in excess of that required to address the impacts of the Project;

4. This Agreement will mitigate significant environmental impacts; and

5. This Agreement will otherwise achieve the goals and purposes for which the Development Agreement Act (California Government Code Sections 65864-65869.5) was enacted.

O. Nature of Recitals. These recitals are intended in part to paraphrase and summarize this Agreement, however, the Agreement is expressed below with particularity and the Parties intend that their rights and obligations be determined by those provisions and not by the recitals.

NOW, THEREFORE, the parties do hereby agree as follows:

1. Definitions. In this Agreement, unless the context otherwise requires:

(a) "Annual Payment" means each annual payment subsequent to the first payment and shall be paid no later than August 31 of the year following the year in which the first payment is made. For example, if the Initial Payment Date is June, 2011, the next Annual Payment would be due by August 31, 2012.

(b) "Applicable Rules" means the City ordinances, resolutions, rules, regulations and official policies in effect on the Effective Date, as amended by the Project Approvals.

(c) "Architectural Review Approval" means the approval of an application for architectural review under the Applicable Rules, including without limitation the Hospital Zoning Ordinance.

(d) "City" is the City of Palo Alto.

(e) "Comprehensive Plan" is the 1998-2010 Palo Alto Comprehensive Plan, adopted in July 1998 and as amended through the Effective Date.

(f) "Conditions of Approval" are the conditions to the Project Approvals or Subsequent Approvals included in or incorporated by reference in an ordinance, resolution or motion granting a Project or Subsequent Approval, and including the environmental mitigations adopted by the City Council.

(g) "Construction Period" is the time period between (i) the issuance of the first permit or approval by an public agency with jurisdiction over the Project, whether it be the City, OHSPD, or any other public agency, which allows the SUMC Parties to undertake development and construction activities contemplated by the Project, the issuance of which the Parties currently estimate to occur in 2011, and (ii) the first anniversary of the final certificate of occupancy for the Project, which anniversary the Parties currently estimate to occur in 2027. **[NOTE: If City Council modifies or elects to forego Cost Neutrality requirements as proposed by City Staff, then this provision may not be required.]**

(h) "Construction Use Tax" is the actual amount of use tax revenues derived from construction of the Project. **[NOTE: If City Council modifies or elects to forego Cost Neutrality requirements as proposed by City Staff, then this provision may not be required.]**

(i) "Construction Use Tax Estimates" are those use taxes estimated to be derived from Construction Related Purchasing activities undertaken as part of the Project each year between 2011 and 2041, as set forth in Exhibit 3 to the January 14, 2011 memorandum from Amy L. Herman, Senior Managing Director of CBRE Consulting, to Mr. William Phillips, Senior Associate Vice President, Stanford University, Land, Buildings & Real Estate (hereafter "CBRE Exhibit 3", attached to this Agreement as Exhibit F), which total $8,148,416 for the entire thirty (30) year period. **[NOTE: If City Council modifies or elects to forego Cost Neutrality requirements as proposed by City Staff, then this provision may not be required.]**

(i) "County Property" means the portion of the Property in the unincorporated area of Santa Clara County, consisting of approximately 0.75 acres.

(j) "Days" shall mean calendar days.

(k) "Design Guidelines" means the Design Guidelines approved as part of the Project Approvals, as listed on Exhibit B.

(l) "Development Agreement Act" means Article 2.5 of Chapter 4, of Division 1 of the California Government Code (Sections 65864 - 65869.5).

(m) "Development Impact Fees" means all fees now or in the future collected by the City from applicants for new development (including all forms of approvals and permits necessary for development) for the funding of public services, infrastructure, improvements or facilities, but not including taxes or assessments, or fees for processing applications or permits or for design review. The fees included in this definition include, but are not limited to those fees set forth in Chapters 16.45, 16.47 and 16.58 of the Municipal Code, fees for traffic improvements and mitigation, and fees for other community facilities or related purposes (but not including any school fees imposed by a school district); provided nothing herein shall preclude City from collecting fees lawfully imposed by another entity having jurisdiction which City is required or authorized to collect pursuant to State law.

(n) "Discretionary Action" includes a "Discretionary Approval" and is an action or decision which requires the exercise of judgment, deliberation, and which contemplates the imposition of revisions or conditions, by City, including any board, commission or department and any officer or employee thereof, in the process of approving or disapproving a particular activity, as distinguished from an activity which merely requires City, including any board, commission or department and any officer or employee thereof, to determine whether there has been compliance with applicable statutes, ordinances, regulations, or Conditions of Approval.

(o) "Effective Date" means _____, 2011.

(p) "Hospital Foundation Permit" means the OSHPD Incremental Project Permit allowing either Hospital to construct the primary load bearing foundation for a new or expanded hospital building. The SUMC Parties' best estimate of the anticipated date for issuance of the Hospital Foundation Permit, based on current information, is by January 1, 2012

(q) "Hospital Occupancy Permit" means issuance of all permits necessary to allow the first Hospital building to be used by members of the public for healthcare services. Issuance of a temporary occupancy permit for purposes of building preparations in advance of opening shall not trigger obligations based upon issuance of the Hospital Occupancy Permit. However, a temporary occupancy permit that allows the Hospital building to be used by the public for healthcare services shall trigger obligations based upon issuance of the Hospital Occupancy Permit.

(r) "Hospitals" means SHC and LPCH.

(s) "Hospital Zoning Ordinance" is the ordinance of City, adopted as part of the Project Approvals, amending the Zoning Ordinance to revise and establish the permitted and conditionally permitted uses, intensity, and other standards and specifications applicable to the Property.

(t) "HSSA" means the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1973, as amended by the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, and by SB 1953, as it may be further amended from time to time.

(u) "Initial Payment Date" means the date that is 45 days from the filing and posting of the Notice of Determination filed by the City after the second reading of the ordinance approving the Hospital District zoning and the ordinance approving this Development Agreement.

(v) "Initial Project Approvals" means those entitlements, permits and approvals listed on Table 1 of Exhibit B.

(w) "Life Of The Project" means fifty-one years from the Effective Date.

(x) "LPCH" means Lucile Salter Packard Children's Hospital at Stanford, a California nonprofit public benefit corporation.

(y) "Mortgage" means and refers, singly and collectively, to any mortgages, deeds of trust, security agreements, assignments and other like security instruments encumbering all or any portion of the Property or any of the SUMC Parties' rights under this Agreement.

(z) "Mortgagee" means and refers to the holder of any Mortgage encumbering all or any portion of the Property or any of the SUMC Parties' rights under this Agreement, and any successor, assignee or transferee of any such Mortgage holder.

(aa) "Net New Square Footage" means the amount of new square footage constructed pursuant to the Project Approvals, less the total amount of existing square footage demolished. For purposes of calculating applicable fees, the demolition of square footage of the structure at 1101 Welch Road, the 1973 Core Expansion building, and the 77 square foot hospital entry shall be credited against the fees for the new SHC hospital structure; demolition of the square footage of the structures at 701 and 703 Welch Road shall be credited against the fees for expansion of LPCH; demolition of the square footage of the Nurses' cottage, shops and sheds at the Hoover Pavilion Site shall be credited against the fees for the square footage of the new medical office building at the Hoover Pavilion Site; demolition of the Stone Building complex (1959 Hospital Buildings, including East, West, Core, Boswell, Grant, Alway, Lane and Edwards) shall be credited against the fees for new square footage for the University and SHC in the amount corresponding to the new square footage constructed by each entity. To the extent the SUMC Parties construct new buildings to replace the Stone Building complex and/or 1973 Core Expansion building prior to demolishing or vacating all or part of those structures, the SUMC Parties may, in their discretion, elect to take credit for future demolition of the Stone Building complex and/or 1973 Core Expansion building when calculating payment of fees for the new square footage. Construction of School of Medicine improvements for the University will result in no Net New Square Footage.

(bb) "Occupancy Permit" means a permit issued by any agency that allows a new or expanded structure to be used by members of the public for healthcare services. Issuance of a temporary occupancy permit for purposes of building preparations in advance of opening shall not trigger obligations based upon issuance of the Occupancy Permit. However, a temporary occupancy permit that allows the building or structure to be used by the public for healthcare services shall trigger obligations based upon issuance of the Occupancy Permit.

(cc) "Operational On-Site Sales Tax" is the actual amount of on-site sales tax revenues derived from SUMC Facilities On-Site Sales activities undertaken as part of the Project and that are received by the City for any particular Operational Use Tax Payment Year. **[NOTE: If City Council modifies or elects to forego Cost Neutrality requirements as proposed by City Staff, then this provision may not be required.]**

(dd) "Operational On-Site Sales Tax Estimates" are those sales taxes estimated to be derived from SUMC Facilities On-Site Sales activities undertaken as part of the Project for each year between 2011 and 2041, as set forth in CBRE Exhibit 3 (Exhibit F hereto), which currently total $3,270,033 for the entire thirty (30) year period. **[NOTE: If City Council modifies or elects to forego Cost Neutrality requirements as proposed by City Staff, then this provision may not be required.]**

(ee) "Operational Use Tax" is the actual amount of use tax revenues, as defined in Regulation 1806 of the California State Board of Equalization, derived from SUMC Direct Purchasing activities undertaken as part of the Project and that are received by the City for any particular Operational Use Tax Payment Year. **[NOTE: If City Council modifies or elects to forego Cost Neutrality requirements as proposed by City Staff, then this provision may not be required.]**

(ff) "Operational Use Tax Estimates" are those use taxes estimated to be derived from SUMC Direct Purchasing activities undertaken as part of the Project for each year between 2011 and 2041, as set forth in CBRE Exhibit 3 (Exhibit F hereto), which total $840,878 for the entire thirty (30) year period. **[NOTE: If City Council modifies or elects to forego Cost Neutrality requirements as proposed by City Staff, then this provision may not be required.]**

(gg) "Operational Tax Payment Year" means each year during the Term of the Agreement in which the Project generates On-Site Sales Tax revenues or Operational Use Tax revenues to be allocated to the City pursuant to this Agreement, which years are currently estimated by the Parties to begin in 2017 and to end in 2041, inclusive. **[NOTE: If City Council modifies or elects to forego Cost Neutrality requirements as proposed by City Staff, then this provision may not be required.]**

(hh) "OSHPD" means the Office of Statewide Health Planning and Development.

(ii) "Party" is a signatory to this Agreement, or a successor or assign of a signatory to this Agreement.

(jj) "Project" means development of the Property in accordance with the Applicable Rules, Project Approvals, and this Agreement, which is generally described as follows: (1) construction of the new SHC Hospital (in multiple phases), new SHC Clinic/Medical office buildings, new medical office/clinic building at the Hoover Pavilion site, new LPCH Hospital, new LPCH clinic/medical office space, new buildings for the School of Medicine, new SHC parking structure, new LPCH parking structure, new clinics parking structure at the Main SUMC Site, new parking structure at the Hoover Pavilion Site, Welch Road widening, Durand Way connector road, new driveways and drop-off areas, other roadway improvements, new heliport, and miscellaneous accessory structures, surface parking, pavement and landscape improvements; (2) renovation and remodeling of existing hospital, clinic and medical office facilities including the Hoover Pavilion; and (3) demolition of the 1959 Stone Building complex (hospital and School of Medicine buildings), 1973 Core Expansion

building, 1101 Welch Road medical offices, hospital entry, nurses' cottage, miscellaneous shops and storage buildings at the Hoover Pavilion Site, 701 and 703 Welch Road medical offices, Parking Structure 3, Falk Lot 5, a portion of the Hoover Pavilion surface parking lot, and other miscellaneous surface parking, pavement and landscaped areas.

(kk) "Project Approvals" means the approvals, certifications or actions listed on Exhibit B and any Subsequent Approvals, including all Conditions of Approval.

(ll) The "Property" means the real property more particularly described in Exhibit A.

(mm) "Right Sizing" means the increased Net New Square Footage attributable to increased floor area per inpatient bed or service without substantially increasing the number of patients or employees.

(nn) "SB 1953" means Senate Bill 1953 (Chapter 740, 1994), California Health and Safety Code Section 130000 – 130070 (amending the Alfred E. Alquist Hospital Seismic Safety Act of 1983).

(oo) "SHC" means Stanford Hospital and Clinics, a California nonprofit public benefit corporation.

(pp) "School of Medicine" means the Stanford University School of Medicine, which is part of the University.

(qq) "Subsequent Applicable Rules" means the ordinances, resolutions, rules, regulations and official policies of City, as they may be adopted and effective after the Effective Date that do not conflict with the Applicable Rules, or that are expressly made applicable to the subject matter of this Agreement by Section 8.

(rr) "Subsequent Approvals" means any approval relating to the Project issued by the City upon request of any SUMC Party after the Effective Date, including Discretionary Approvals and ministerial approvals.

(ss) "Subsequent Rules" means all City ordinances, resolutions, rules, regulations and official policies in effect at the time a City action is to be taken that would apply to the Project had this Agreement not been adopted.

(tt) "SUMC" means the Stanford University Medical Center.

(uu) "SUMC Parties" means SHC, LPCH, and the University.

(vv) "Tax Reports" means the quarterly detailed sales and use tax revenue reports received by the City from the State of California as they pertain to revenues generated by or in connection with the Project and the Property. **[NOTE: If City Council modifies or elects to forego Cost Neutrality requirements as proposed by City Staff, then this provision may not be required.]**

(ww) "Term" shall mean the term of this Agreement as set forth in Section 18.

(xx) "University" means the Board of Trustees of the Leland Stanford Junior University, a body having corporate powers under the laws of the State of California.

(yy) "Vested Right" means a property right conferred by this Agreement that may not be rescinded, reduced, revoked or abrogated by the City.

(zz) "Zoning Ordinance" is the zoning ordinance for the City of Palo Alto (Title 18 of the Palo Alto Municipal Code).

2. Interest of the SUMC Parties. Each of the SUMC Parties represent that, as of the Effective Date, it has a legal or equitable interest in all or a portion of the Property as required by Section 65865 of the California Government Code.

3. Binding Effect. Subject to the provisions of Section 19 below, this Agreement, and all of the terms and conditions hereof, shall run with the land and shall be binding upon and inure to the benefit of the parties and their respective assigns, heirs or other successors in interest.

4. Negation of Agency. The parties acknowledge that, in entering into and performing this Agreement, the City, on the one hand, and the SUMC Parties, on the other hand, are each acting as an independent entity and not as an agent of the other in any respect. Nothing contained herein or in any document executed in connection herewith shall be construed as making City the joint venturer or partner of any of the SUMC Parties, or any of the SUMC Parties the joint venturer or partner of the City.

5. SUMC Parties' Promises.

(a) **Health Care Benefits.**

(i) Summary of Intrinsic Benefits. Summary Stanford University Medical Center is recognized as a global leader in medical care and research, having pioneered advancements in transplantation medicine, cancer

care, prenatal diagnosis and treatment, and diabetes and cholesterol treatments. In 2009, the SHC and the Lucile Salter Packard Children's Hospital at Stanford provided the following benefits and services:

- 36,559 inpatients admitted
- 48,744 emergency department visits
- 4,759 babies delivered
- $262.6 million in uncompensated medical services, charity care, and community programs.

The SUMC Parties served 64 percent of Palo Alto residents who required hospitalization in 2009. The Project will enable the SUMC Project sponsors to continue this important work, and the addition of more beds for adults and children will alleviate overcrowding and allow the hospitals to serve patients who currently must be turned away. The hospitals also provide the only Level 1 Trauma Center between San Francisco and San Jose. The Trauma Center and the Emergency Department ensure critical community emergency preparedness and response resources for the community in the event of an earthquake, pandemic, or other major disaster.

(ii) Fund for Healthcare Services. Not later than the Initial Payment Date, and subject to the provisions in Section 21(p), the Hospitals shall establish a program (the "Patient Services Program") pursuant to which the Hospitals will contribute up to Three Hundred Thousand Dollars ($300,000) in Annual Payments, for a period of ten (10) years for a total of Three Million Dollars ($3,000,000), to assist residents of Palo Alto who have self-payment responsibilities beyond their financial means, to pay healthcare services. If in any year less than Three Hundred Thousand Dollars ($300,000) is used by the Patient Services Program, the excess shall be used in any one or all subsequent years or added to the payment set forth in Section 5(a)(iii) below. The Patient Services Program shall be in addition to the Hospitals' Financial Assistance/Charity Care Policy dated August 2010, as amended from time to time, and in addition to any coverage afforded by the new federal Health Care and Education Reconciliation Act and subsequent amendments. The Hospitals, in their reasonable discretion, shall develop criteria for determining whether patients are qualified to receive assistance from the Patient Services Program based on Palo Alto residency status and financial need. The Hospitals shall report the criteria used to determine eligibility for assistance from the Patient Services Program, comparative criteria used to determine eligibility for assistance under the Hospitals' charity policies (in order to verify that the Patient Services Program is in addition to the Hospitals' charity policies and other federal requirements) and their disbursements under the Patient Services Program annually, as part of the annual

report described in Section 12(d). All reporting will comply with applicable privacy laws and policies, as well as the privacy policies of the Hospitals.

If at any time the Hospitals and City mutually determine that the Patient Services Program creates undue administrative burdens or is not needed by the Palo Alto community in view of other available programs, the Hospitals shall contribute, in annual installments, the remainder of the funds allocated to the Patient Services Program to the Community Health Program Fund described in Section 5(a)(iii) below.

(iii) Fund for Community Health Programs. Not later than the Initial Payment Date, and subject to the provisions in Section 21(p), the SUMC Parties shall contribute, in a single lump sum payment, Four Million Dollars ($4,000,000) (the "Community Health Program Fund") to the City, to be held in a separate account and to be distributed to selected community health programs that benefit residents of the City. The SUMC Parties and the City shall establish a joint committee to evaluate proposals regarding the specific programs to receive the funding, composed of two representatives selected by the SUMC Parties and two representatives selected by the City. The committee may choose to coordinate its efforts with the City's Human Relations Commission, and the City's representatives on the committee may be members of the Human Relations Commission. The joint committee shall make annual recommendations to the City Council regarding proposed disbursements from the Community Health Program Fund, and the City Council shall use its reasonable discretion to decide whether to accept, reject or modify the committee recommendations. The City shall keep the funds paid by the SUMC Parties to the Community Health Program Fund in a separate account, to be used only for the purposes described in this Section 5(a)(iii). The City shall deliver an annual report of disbursements from the Community Health Program Fund in accordance with Section 12(d) below.

(b) **Palo Alto Fiscal Benefits.**

(i) Payment of Sales and Use Taxes Estimates. **[NOTE: If City Council modifies or elects to forego Cost Neutrality requirements as proposed by City Staff, then this section may not be required.]**

(a) Designation of Project for Sales and Use Tax Purposes. The SUMC Parties shall accrue or self report sales and use taxes for the benefit of the City pursuant to the applicable regulations of the State Board of Equalization (the "SBOE") regulations, and any additional regulations issued or amendments made thereto, for the purpose of ensuring that the City receives the maximum allocation of sales and use taxes derived from the Project available under the applicable laws and regulations. To this end, the SUMC Parties shall: (i) obtain all permits and licenses necessary to maximize the City's allocation of sales and use taxes derived from the Project, including but not

limited to California Seller's Permits, Use Tax Direct Payment Permits, and any other license or permit necessary or desirable to maximize the City's allocation of sales and use taxes derived from the Project; (ii) designate, and contractually require its contractors and subcontractors to designate, the Property as the place of sale of all "fixtures" furnished and/or installed as part of the Project; (iii) designate, and contractually require all its contractors and subcontractors to designate, the Property as the place of use of all "materials" used in the construction of the Project; and (iv) contractually require all contractors and subcontractors holding contracts to allocate the local sales and use taxes derived from such contracts directly to the City, to the maximum extent permitted by law. The SUMC Parties shall, and shall contractually require its contractors and subcontractors to, complete and file any forms as the SBOE requires to effect the designations required by this Section 5(b)(i), pursuant to the applicable regulations of the SBOE. The SUMC Parties shall bear all costs associated with its activities under this Section 5(b) (Palo Alto Fiscal Benefits).

(b) Construction Use Tax Estimates and Payments. Within ninety (90) days from the end of each calendar quarter throughout the Construction Period (and including any calendar quarter necessary to capture the beginning or the end of the Construction Period), the SUMC Parties shall submit to the City the written data needed for the City to ascertain (in conjunction with the City's review of the Tax Reports) the amount of Construction Use Tax derived from the Project during that calendar quarter. The written data from SUMC Parties shall include, but is not limited to: (i) relevant portions of the SUMC Parties' tax return for the quarter showing the break-down of sales and use taxes; (ii) a self-accrual report for the quarter identifying purchases made, purchase prices and taxes pertinent to such purchases for owner supplied items; and (iii) a memorandum for the quarter identifying contractor, sub-contractor, sub-contractor vendor, supplier and other similarly situated persons from whom purchases were made, where such contractor, sub-contractor, vendor, and/or other similarly situated party may allocate taxes directly to the City rather than through SUMC Parties' self-accrual system.

On or before April 30 of each calendar year throughout the Construction Period, the City Manager shall analyze the Tax Reports for each calendar quarter during the preceding calendar year and, applying the data supplied by SUMC Parties, shall provide SUMC Parties with a written determination of the amount of Construction Use Tax allocated to and received by the City for the preceding calendar year. The City Manager's written determination shall further indicate the specific amount, if any, by which the total Construction Use Tax received by the City during the preceding calendar year is less than the Construction Use Tax Estimate for that calendar year. The SUMC Parties shall, within forty-five (45) days after receipt of the City Manager's written determination, pay to City such amount, if any, by which the Construction Use Tax received by City for that calendar year is less than the Construction Use

Tax Estimate (the "Construction Use Tax Difference Payment"), plus an amount equal to the product of the Construction Use Tax Difference Payment times the change in the Engineering News Record index for construction costs (the "ENR Index") for the period of time from the beginning of the preceding calendar year to the end of the preceding calendar year as published by the Engineering News Record expressed as a percentage.

(c) Operational Use Tax Estimates and Payments. On or before March 15 of the year following any Operational Tax Payment Year, the SUMC Parties shall submit to the City the written data needed for the City to ascertain the amount of Operational Use Tax derived from the Project for that Operational Tax Payment Year (in conjunction with the City's review of the Tax Reports). The written data from the SUMC Parties shall include, but is not limited to: (i) relevant portions of SUMC Parties' tax returns covering the whole of the Operational Tax Payment Year showing the break-down of sales and use taxes; (ii) a self-accrual report for the Operational Tax Payment Year identifying purchases made, purchase prices and taxes pertinent to such purchases for each contractor, sub-contractor, sub- subcontractor vendor, supplier and other similarly situated persons from whom purchases were made and self-accrued; and (iii) a memorandum for the Operational Tax Payment Year identifying any purchases made, purchase prices and taxes pertinent to such purchases for each contractor, sub-contractor, sub-subcontractor vendor, supplier and other similarly situated persons from whom purchases were made where such contractor, sub-contractor, vendor and/or other similarly situated party allocates taxes directly to the City rather than through SUMC Parties' self-accrual system.

On or before April 30 of the year following any Operational Tax Payment Year or as soon thereafter as practicable, the City Manager shall analyze the Tax Reports for that Operational Tax Payment Year and, applying the data supplied by SUMC Parties, shall provide SUMC Parties with a written determination of the amount of Operational Use Tax received by the City for that Operational Tax Payment Year. The City Manager's written determination shall indicate: (A) the amount of Operational Use Tax the City received for that particular Operational Tax Payment Year, and (B) the specific amount, if any, by which the Operational Use Tax received by City is less than the Operational Use Tax Estimate for that Operational Tax Payment Year. The SUMC Parties shall, within forty-five (45) days after receipt of the City Manager's written determination, pay to City such amount, if any, by which the Operational Use Tax received by the City for that Operational Tax Payment Year is less than the Operational Use Tax Estimate for that particular Operational Tax Payment Year (the "Operational Use Tax Difference Payment"), plus an amount equal to the product of the Operational Use Tax Difference Payment times the change in the Consumer Price Index for All Urban Consumers for the San Francisco Region ("CPI-AUC") for the period of time from the beginning of that particular Operational Tax Payment Year to the end of that Operational Tax Payment Year

as published by the United States Bureau of Labor Statistics ("USBLS") expressed as a percentage. [Note: This index will be changed to CPI-US.]

(d) Operational On-Site Sales Tax Estimates and Payments. On or before March 15 of the year following any Operational Tax Payment Year, the SUMC Parties shall submit to the City the written data needed for the City to ascertain the amount of Operational On-Site Sales Tax derived from the Project for that Operational Tax Payment Year (in conjunction with the City's review of the Tax Reports). The written data from the SUMC Parties shall include, but is not limited to: (i) relevant portions of SUMC Parties' tax returns covering the whole of the Operational Tax Payment Year showing the break-down of sales and use taxes; (ii) a self-accrual report for the Operational Tax Payment Year identifying on-site sales made, sales prices and taxes pertinent to such sales; and (iii) a memorandum for the Operational Tax Payment Year identifying any sales made, sales prices and taxes pertinent to such sales.

On or before April 30 of the year following any Operational Tax Payment Year or as soon thereafter as practicable, the City Manager shall analyze the Tax Reports for that Operational Tax Payment Year and, applying the data supplied by SUMC Parties, shall provide SUMC Parties with a written determination of the amount of Operational On-Site Sales Tax received by the City for that Operational Tax Payment Year. The City Manager's written determination shall indicate: (A) the amount of Operational On-Site Sales Tax the City received for that particular Operational Tax Payment Year; and (B) the specific amount, if any, by which the Operational On-Site Sales Tax received by City is less than the Operational On-Site Sales Tax Estimate for that Operational Tax Payment Year. The SUMC Parties shall, within forty-five (45) days after receipt of the City Manager's written determination, pay to City such amount, if any, by which the Operational On-Site Sales Tax received by the City for that Operational Tax Payment Year is less than the Operational On-Site Sales Tax Estimate for that particular Operational Tax Payment Year (the "Operational On-Site Sales Tax Difference Payment"), plus an amount equal to the product of the Operational On-Site Sales Tax Difference Payment times the change in the CPI-AUC for the period of time from the beginning of that particular Operational Tax Payment Year to the end of that Operational Tax Payment Year as published by the USBLS expressed as a percentage. [Note: This index will be changed to CPI-US.]

(e) Establishment of Retail Sales and Use Tax Reporting District. The SUMC Parties shall cooperate in good faith with the City to assist the City in establishing and administering a Retail Sales and Use Tax Reporting District that includes the Property and the Project, to enable the City to track the generation, allocation, reporting and payment of sales and use

taxes derived from the Project. Such cooperation shall include providing the City with a list of all SBOE Permit Codes assigned to the SUMC Parties' operations and activities on the Property and associated with the Project, and the physical locations (e.g., addresses) associated with such SBOE Permit Codes.

(f) Purpose of Tax Estimates and Payment Provisions. The SUMC Parties hereby acknowledge and agree that the purpose and intent of the tax payment provisions in this Section 5(b)(i) is to ensure for the City that the sales and use taxes received by the City during the Life Of The Project equal or exceed the sales and use tax estimates incorporated into this Agreement, as adjusted for inflation. The SUMC Parties further understand, acknowledge, and agree that the provisions in this Section 5(b)(i) to ensure that the sales and use tax revenues received by the City equal or exceed the sales and use tax estimates, as adjusted for inflation, are a material part of the SUMC Parties consideration for the City's entering into this Agreement, and the City would not have entered into this Agreement if it was not guaranteed and assured that the sales and use tax revenues it receives during the Life Of The Project will equal or exceed the sales and use tax estimates incorporated into this Agreement, as adjusted for inflation. Consequently, if the sales and use taxes actually received by the City for any calendar year during the Construction Period or for any Operational Tax Payment Year do not, for any reason, meet or exceed the sales and use tax estimates set forth in this Agreement, as adjusted for inflation, the SUMC Parties shall promptly pay to the City the shortfall as provided for in this Section 5(b)(i). In addition, the SUMC Parties further agree that they shall cooperate in good faith with the City to ensure that the City receives the maximum allocation of sales and use taxes derived from the Project available under the applicable laws and regulations, and such cooperation shall include without limitation continuing, for the Term of this Agreement, to take all reasonable and appropriate actions necessary to correct any misallocations or reporting errors that may occur with respect to the generation, allocation, reporting and payment of sales and use taxes derived from the Project.

(ii) School Fees. The SUMC Parties shall pay to the City, who in turn shall forward the fees to the Palo Alto Unified School District, school fees upon issuance of each building permit from the City or OSHPD, in the amount that is generally applicable to non-residential development at the time of payment based upon Net New Square Footage. For buildings subject to OSHPD jurisdiction, the school fees will be paid within Thirty (30) days after issuance of a building permit from OSHPD.

(iii) Payment to Fund Projected Operating Deficit. The SUMC Parties shall make a one-time payment of one million one hundred thousand dollars ($1,100,000) to the City, not later than thirty (30) days after the Effective Date of this Agreement. **[NOTE: If Cost Neutrality Agreement**

**provisions rely on CBRE's revenue projections and City Council elects to forego inflation adjustment, then this provision would not be required.]**

(iv) Payment of Utility User Tax. All requirements and language in Section 2.35.100(a) of the City's Municipal Code to the contrary notwithstanding, the SUMC Parties shall pay to the City a utility user tax at a minimum rate of five percent (5%) of all electricity, gas, and water charges allocable to new construction completed as part of the Project for a period of fifty-one (51) years following the Effective Date of this Agreement, which rate may be increased by the City as provided by Section 2.35.100(b) of the City's Municipal Code.

(c) **Traffic Mitigation and Reduced Vehicle Trips.**

(i) Summary of existing programs. The Hospitals provide a robust program to minimize commuting by drive-alone vehicles, which currently includes the following components:

- Incentives to forego driving or to carpool, including cash payments or other credit for participating in a carpool program, various parking incentives, online ride matching, pretax payroll deduction for transit passes, emergency rides home, free car rental vouchers, Zipcar car sharing credits, and other gifts and rewards.

- The free Marguerite Shuttle system, supported in part by payments from the Hospitals, connecting the Hospitals to local transit, Caltrain, and local shopping and dining.

- The Eco Pass program for hospital employees, allowing free use of VTA buses and light rail, the Dumbarton Express, the Highway 17 Express, and the Monterey-San Jose Express.

- Free use of the U-Line Stanford Express connecting BART, the ACE train, and Ardenwood Park & Ride to Stanford.

- Alternative transportation support and information, such as a bicycle commuter facilities (clothes lockers, showers, bike lockers), transit pass sales, and various sources of 'green' and alternative transportation information including an 'alternative transportation website.

(ii) Menlo Park Traffic Mitigation. The SUMC Parties shall make the following contributions to mitigate traffic in the City of Menlo Park:

(A) Contribution to Menlo Park Traffic-Adaptive Signal Technology. The SUMC Parties shall pay to the City of Menlo Park Seventy Two Thousand Five Hundred Dollars ($72,500) to contribute toward the costs of Traffic-Adaptive Signal Technology (collectively, "Intersection Improvements"), at intersections in the City of Menlo Park, including the following: Middlefield Road/Willow Road; Sand Hill Circle and San Hill/I-280; Sand Hill Road/Sharon Park Drive, Middlefield Road/Ringwood Avenue, Middlefield Road/Ravenswood Avenue, Marsh Road/Bay Road, Marsh Road/US 101 SB ramp, Marsh Road/US 101 NB ramp, Willow Road/Bay Road.

(B) Pedestrian/Bike Caltrain Undercrossing. The SUMC Parties shall pay to the City of Menlo Park One Hundred Eighty-Three Thousand Dollars ($183,000) to contribute to the construction of one pedestrian/bike Caltrain undercrossing in Menlo Park.

(C) Menlo Park Shuttle Fee Program. The SUMC Parties shall to the City of Menlo Park fees to Menlo Park's shuttle fee program or any successor program, based on Net New Square Footage in excess of Right-Sizing Square Footage, in accordance with the formula set forth below. In no event shall the SUMC Parties' aggregate annual payment to Menlo Park for the shuttle fee program exceed Forty Six Thousand Three Hundred Forty Dollars ($46,340) per annum.

(1) The shuttle fees shall be paid in Annual Payments to the City of Menlo Park for each occupied Net New Square Footage in excess of Right-Sizing Square Footage, beginning within Thirty (30) days from of the date of issuance of an Occupancy Permit for the building, and continuing for the Life Of The Project.

(2) The amounts payable pursuant to this Section 5(c)(ii)(C)(2) shall be calculated as follows: Total Net New Square Footage for SHC facilities to be constructed is Eight Hundred Twenty Three Thousand Seven Hundred Seventy Two (823,772) square feet, of which Three Hundred Twenty Thousand (320,000) square feet is allocable to Right-Sizing. Therefore, SHC shall pay Menlo Park shuttle fees in the amount of Five and Thirty Six Hundredths Cents ($0.0536) per square foot for each Net New Square Footage of SHC facilities in excess of Three Hundred Twenty Thousand (320,000) square feet. Total Net New Square Footage for LPCH facilities to be constructed is Four Hundred One Thousand Five Hundred (441,500) Net New Square Footage, of which One Hundred Twenty Six Thousand (126,000) is for Right-Sizing. Therefore, LPCH shall pay to Menlo Park shuttle fees in the amount of Five and Thirty Six Hundredths Cents ($0.0536) per square foot for each Net New Square Footage of LPCH facilities in excess of One Hundred Twenty Six Thousand

(126,000) square feet. The SUMC Parties shall pay Menlo Park shuttle fees in the amount of Five and Thirty Six Hundredths Cents ($0.0536) per square foot for each Net New Square Footage of medical office space constructed at the Hoover Pavilion site.

(D) Willow Rd/Bayfront Expressway Improvements. The SUMC Parties shall contribute Fourteen Thousand One Hundred Dollars ($14,100) to the City of Menlo Park for construction of improvements at the Willow Road/Bayfront Expressway intersection.

(E) Bayfront Expressway/University Avenue Improvements. The SUMC Parties shall contribute Two Hundred Twenty Five Thousand Dollars ($225,000) to the City of Menlo Park for construction of improvements at the Bayfront Expressway/University Avenue intersection.

(F) Willow Road/Middlefield Road Improvements. The SUMC Parties shall contribute Two Hundred Eight-Nine Thousand Dollars ($289,000) to the City of Menlo Park for construction of improvements at the Willow Road/Middlefield Road intersection.

(G) Opticom Systems. The SUMC Parties shall contribute Six Thousand Four Hundred Dollars ($6,400) to the City of Menlo Park for installation of Opticom systems at the following four (4) intersections: Middlefield Road/Willow Road, Middlefield Road/Ravenswood Avenue, Willow Road/Bayfront Expressway, and Bayfront Expressway/University Avenue.

(H) Timing and Process for Payments. The SUMC Parties shall make the payments to the City of Menlo Park as described above, other than the shuttle fee payments described in Section 5(c), within Thirty (30) days after issuance of the Hospital Occupancy Permit. The shuttle fees described in Section 5(c)(ii)(C) shall be paid as Annual Payments, based on the calculations set forth in Section 5(c)(ii)(C)(2).

(iii) Contributions to AC Transit. The Hospitals shall offer to contribute the following to AC Transit:

(A) Within Thirty (30) days from issuance of the Hospital Occupancy Permit, the Hospitals shall offer to make a one-time payment to the Alameda-Contra Costa Transit District ("AC Transit") of Two Hundred Fifty Thousand Dollars ($250,000) to be used for capital improvements to the U-Line to increase capacity.

(B) Commencing within Thirty (30) days from issuance of the Hospital Occupancy Permit and continuing for the Life Of The Project, the Hospitals shall offer to make Annual Payments to AC Transit in a reasonable annual amount, not to exceed Fifty Thousand Dollars ($50,000), to be used for

operating costs of the U-Line to maintain a load factor for bus service to the SUMC of less than 1.0.

(C) In order to encourage Hospital employees who commute from the East Bay to use public transit from the East Bay to the Project, the Hospitals shall use best efforts to lease seventy five (75) parking spaces at the Ardenwood Park and Ride lot, or an equivalent location, commencing within Thirty (30) days from issuance of the Hospital Occupancy Permit and continuing for the Life Of The Project, at a cost not to exceed Forty Five Thousand Dollars ($45,000) per year.

(iv) Opticom Payments. Within Thirty (30) days after issuance of the Hospital Occupancy Permit, the SUMC Parties shall make the following contributions to mitigate traffic in Palo Alto.

(A) Opticom Systems. The SUMC Parties shall pay Eleven Thousand Two Hundred Dollars ($11,200) to the City for installation of Opticom systems at the following seven (7) intersections: El Camino Real/Palm Drive/University Avenue; El Camino Real/Page Mill Road; Middlefield Road/Lytton Road; Junipero Serra/Page Mill Road; Junipero Serra/Campus Drive West, Galvez/Arboretum, Alpine/280 Northbound ramp. The City shall use its best efforts to cause the Opticom system to be installed at the intersections listed in this Section 5(c)(ii)(A) that are not located within the City's jurisdiction.

(v) Caltrain Go Passes.

Commencing on September 1, 2015, the Hospitals shall purchase annual Caltrain GO Passes (free train passes) for all existing and new Hospital employees who work more than 20 hours per week, at a cost of up to One Million Eight Hundred Thousand Dollars ($1,800,000) per year, which amount shall be adjusted annually to reflect any change in the San Francisco Bay Area Consumer Price Index (the "GO Pass Amount"). The Hospitals' obligation under this Section 5(c)(v) to provide GO Passes shall continue for the Life Of The Project, or until such earlier date as: (a) Caltrain discontinues the GO Pass program, or a substantially similar program; (b) Caltrain increases the cost of GO Passes, or a substantially similar program, such that the Hospitals' annual costs would exceed the GO Pass Amount; or (c) Caltrain service is reduced by such an extent that the Hospitals and the City mutually determine purchase of annual GO Passes, or a substantially similar program, would no longer be effective in substantially reducing Hospital employee peak period trips in order to achieve the Alternative Mode targets specified in Section 5(c)(viii). If the cost of obtaining GO Passes exceeds the GO Pass Amount, the Hospitals shall have the option to elect either to purchase the GO Passes at the then applicable price, or to terminate the obligation to provide GO Passes, or a substantially similar program. If the Hospitals' obligation to provide GO Passes, or a substantially similar program, terminates for any of the reasons specified in this Section 5(c)(v), the Hospitals shall

contribute the GO Pass Amount to one or more substitute programs to encourage use of transit by Hospital employees or otherwise reduce peak period traffic trips in the intersections impacted by the Project as identified in the Project EIR. The substitute program or programs shall be mutually agreed upon by the SUMC Parties and the City's Director of Planning and Community Environment.

(vi) Marguerite Shuttle Service.

The Hospitals shall fund the reasonable costs, in an approximate amount of Two Million Dollars ($2,000,000), for the purchase of additional shuttle vehicles for the Marguerite shuttle service, as and when required to meet increased demand for shuttle service between the Project Sites and the Palo Alto Intermodal Transit Station. In addition, for the Life Of The Project, the Hospitals shall fund as Annual Payments the reasonable costs, in an approximate amount of Four Hundred Fifty Thousand Dollars ($450,000) per year, to cover the net increase in operating costs for the Marguerite Shuttle.

(vii) Transportation Demand Management Coordinator.

Commencing on September 1, 2015, and continuing through the Life Of The Project, the Hospitals shall employ an onsite qualified Transportation Demand Management ("TDM") coordinator for the SUMC.

(viii) Monitoring of TDM programs.

The City and the SUMC Parties acknowledge that because use of transit by employees of the Hospitals is voluntary, and may be influenced by a number of factors outside of the reasonable control of the Hospitals, such as gasoline prices, costs and availability of alternative transit, housing costs and availability, and personal preferences of employees, the Hospitals cannot guaranty the results of their TDM programs. However, the Hospitals shall monitor the success of their TDM programs from the date of the Initial Project Approvals until 2025. The following interim targets shall be used to measure the progress toward meeting the desired mode split in 2025. These interim targets assume that in the early phases of implementation, there may be larger shifts to alternative modes than the shifts that may occur in later phases of the TDM program enhancement. For purposes of calculating alternative mode share, any mode that does not constitute driving in a single-occupant vehicle to and from the work site shall be considered an "Alternative Mode," including working remotely from home.

| Target Year | Alternative Mode Share | Percent Change |
|---|---|---|
| EIR Baseline (2006) | 22.9 % | NA |
| Project Approval | TBD | TBD |

| Baseline (2011) | | |
|---|---|---|
| 2018 | 30 % | 7.1% |
| 2021 | 33 % | +3 % |
| 2025 | 35.1 % | +2.1 % |

If the applicable interim target is not met for any two consecutive years prior to 2025, the Hospitals shall provide alternative transportation funding to the City in Annual Payments in the amount of One Hundred Seventy Five Thousand Dollars ($175,000) per year until the earlier of the year 2025 or the year the applicable interim mode split target is achieved, subject to a maximum of five Annual Payments. The alternative transportation funding must be used by the City for local projects and programs that encourage citywide use of alternative transportation mode uses.

(A) Submission of Reports. The Hospitals shall submit annual reports showing the current number of employees employed over 20 hours per week; the number of employees using an alternative mode share as documented by a study or survey to be completed by the Hospitals using a method mutually agreeable to the City and Hospitals; and the efforts used by the Hospitals to attempt to achieve the Alternative Mode targets.

(B) 2025 Mode Split Penalty. If by 2025, the Hospitals have not demonstrated substantial achievement of the Thirty Five and One-Tenth Percent (35.1%) target modal split for alternative transportation modes, the Hospitals shall make a lump sum payment of Four Million Dollars ($4.0 million) to the City for local projects and programs that encourage and improve citywide use of alternative transportation mode uses. If required, said $4 million payment shall constitute a penalty for the failure to achieve the target modal split of 35.1% by 2025, and shall not relieve the SUMC Parties of any of its other obligations under this Agreement, which shall continue pursuant to the terms of this Agreement. The City shall keep all payments received from the Hospitals pursuant to this Section 5(c)(viii) in a separate account (the "TDM Fund"), to be used only for the purposes described in this Section 5(c)(viii). The City shall deliver an annual report of disbursements from the TDM Fund in accordance with Section 12 below.

(d) **Linkages.**

To further encourage use of Caltrain, bus and other transit services, and to enhance and encourage use of pedestrian and bicycle connections between the SUMC and downtown Palo Alto, the SUMC Parties shall fund the following improvements:

(i) Improvements to Enhance Pedestrian and Bicycle Connection from Intermodal Transit Center to El Camino Real/Quarry Road Intersection. Two Million Two Hundred Fifty Thousand Dollars ($2,250,000) for improvements to enhance the pedestrian and bicycle connection from the Palo Alto Intermodal Transit Center to the existing intersection at El Camino Real and Quarry Road, with up to Two Million Dollars ($2,000,000) of that amount going to the development of an attractive, landscaped passive park/green space with a clearly marked and lighted pedestrian pathway, benches and flower borders. Not later than the Initial Payment Date, and subject to the provisions in Section 21(p), the SUMC Parties shall pay to the City Two Million Two Hundred Fifty Thousand Dollars ($2,250,000) in one lump sum (the "Intermodal Transit Fund"), and the City shall be responsible for constructing the improvements described in this Section 5(d)(i). The City shall keep the Intermodal Transit Fund in a separate account, to be used only for the purposes described in this Section 5(d)(i). The City shall deliver an annual report of disbursements from the Intermodal Transit Fund in accordance with Section 12(d) below. The City shall construct the improvements described in this Section 5(d)(i) prior to issuance of the Hospital Occupancy Permit.

(ii) Public Right-of-Way Improvements to Enhance Pedestrian and Bicycle Connection on Quarry Road. Four Hundred Thousand Dollars ($400,000) for improvements to and within the public right-of-way to enhance the pedestrian and bicycle connection from the west side of El Camino Real to Welch Road along Quarry Road, including urban design elements and way finding, wider bicycle lanes, as necessary, on Quarry Road, enhanced transit nodes for bus and/or shuttle stops, and prominent bicycle facilities. Not later than the Initial Payment Date, and subject to the provisions in Section 21(p), the SUMC Parties shall pay to the City Four Hundred Thousand Dollars ($400,000) in one lump sum (the "Quarry Road Fund"), and the City will be responsible for constructing the improvements. The City shall keep the Quarry Road Fund in a separate account, to be used only for the purposes described in this Section 5(d)(ii). The City shall deliver an annual report of disbursements from the Quarry Road Fund in accordance with Section 12(d) below. The City shall construct the improvements described in this Section 5(d)(ii) prior to issuance of the Hospital Occupancy Permit.

(iii) Stanford Barn Connection. Up to Seven Hundred Thousand Dollars ($700,000) for improvements to enhance the pedestrian connection between the SUMC and the Stanford Shopping Center going from Welch Road to Vineyard Lane, in the area adjacent to the Stanford Barn. The SUMC Parties shall be responsible for constructing these improvements prior to issuance of the Hospital Occupancy Permit.

(e) **Affordable Housing/ Sustainable Neighborhoods and Communities.**

(i) Payment. The SUMC Parties shall pay to the City a total of Twenty-Three Million Two Hundred Thousand Dollars ($23,200,000) for use in connection with affordable housing and sustainable neighborhoods and communities. The SUMC Parties shall make this contribution in three equal payments as follows:

(A) the first payment shall be made not later than the Initial Payment Date, subject to the provisions in Section 21(p);

(B) the second payment shall be made within Thirty (30) days from issuance of the Hospital Foundation Permit; and

(C) the third payment shall be made within Thirty (30) days from issuance of the Hospital Occupancy Permit.

(ii) The amount of One Million Seven Hundred Twenty Thousand Four Hundred Eighty Eight Dollars ($1,720,488) shall be used in the same manner as funds collected by the City pursuant to its housing fee ordinance. The City shall keep the balance of the payments made pursuant to this Section 5(e) (the "Affordable Housing/ Sustainable Neighborhoods and Communities Fund") in a separate account, to be used only for the purposes described in this Section 5(e). The City shall deliver an annual report of disbursements from the Affordable Housing/ Sustainable Neighborhoods and Communities Fund in accordance with Section 12(d) below.

(iii) The housing credit issued to the SUMC Parties in connection with the Alma substation relocation may be used to offset the obligations in this Agreement.

(f) **Climate Change.**

(i) Sustainability Programs Benefit. The SUMC Parties shall contribute Twelve Million Dollars ($12 Million) to the City for use in projects and programs (including carbon credits) for a sustainable community, including programs identified in the City's Climate Action Plan, as may be amended, and investments in renewable energy and energy conservation. The SUMC Parties' obligation to make this contribution is conditioned on there being no other non-voluntary requirement applicable to the Project to participate in Palo Alto Utilities' Palo Alto Green Program. The SUMC Parties shall make this contribution in three equal payments, as follows:

(A) the first payment shall be made not later than the Initial Payment Date, subject to the provisions in Section 21(p);

(B) the second payment shall be made within Thirty (30) days from issuance of the Hospital Foundation Permit; and

(C) the third payment shall be made within Thirty (30) days from issuance of the Hospital Occupancy Permit.

The City shall keep all payments made pursuant to this Section 5(f) (the "Climate Change Fund") in a separate account, to be used only for the purposes described in this Section 5(f). The City shall deliver an annual report of disbursements from the Climate Change Fund in accordance with Section 12(d) below.

(g) **Administrative Costs.** In implementing each of the funds described in this Section 5, the funds may be used for the Party's reasonable costs of administering the funds, including establishing and maintaining the necessary accounts, reporting upon the use and balance of funds, establishing and implementing procedures to allocate funding, and other activities to implement the funds' purposes.

(h) **Satisfaction of All Conditions of Approval.** The SUMC Parties shall satisfy all Conditions of Approval by the dates and within the time periods required by the Project Approvals, subject to such modifications allowed by this Agreement.

6. City's Promises.

(a) Vested Rights to Develop and Use the Property. City hereby grants to the SUMC Parties the vested right to develop, construct and use the Project on the Property in accordance with the terms and conditions of the Project Approvals and this Agreement, and City hereby finds the Project consistent with the Comprehensive Plan and the Zoning Ordinance as amended by the Project Approvals. City shall not apply to the Project any change in the Applicable Rules adopted or effective after the Effective Date, except as provided in Sections 7 and 8 below.

(b) Permitted and Conditionally Permitted Uses. The permitted and conditionally permitted uses of the Property shall be those described in the Hospital Zoning Ordinance. The rights of the SUMC Parties to continue and maintain permitted and conditionally permitted uses on the Property shall be subject to compliance with the terms and conditions of this Agreement, the Applicable Rules, and the Project Approvals.

(c) Maximum Density and Intensity of Uses. When developed, the density and intensity of use of the Property shall not exceed those densities and intensities of use set forth in the Hospital Zoning Ordinance.

(d) Other Development Standards. All design and development standards not set forth in the Project Approvals or this Agreement shall be in accordance with the Applicable Rules as applied to the Project; provided such standards shall not conflict with the Project Approvals or this Agreement.

(e) Subsequent Rules. Subsequent Rules that conflict with the SUMC Parties' rights to develop the Property as provided under this Agreement are applicable to the Project only under the circumstances described in Sections 7 and 8 below. This limitation applies to changes made by ordinance, initiative, referendum, resolution, policy, order or moratorium, initiated or instituted for any reason whatsoever and adopted by the Mayor, City Council, Planning and Transportation Commission or any other board, commission or department of City, or any officer or employee thereof, or by the electorate.

(f) Subsequent Approvals. City shall not deny or unreasonably delay any Subsequent Approval that is necessary to the exercise of the rights vested in the SUMC Parties by this Agreement. Any conditions, terms, restrictions, and requirements for subsequent Discretionary Actions imposed or required by City, including those provided for herein, shall not prevent development of the land for the uses and to the density or intensity of development set forth in the Agreement. Except as provided in Sections 7 or 8 below. City shall not interpret any Subsequent Approval or apply any Subsequent Rule in a manner that would conflict with the Applicable Rules or reduce the development rights provided by this Agreement. Upon City approval, each Subsequent Approval shall be vested for the Term of the Agreement and the provisions of Section 6(a) shall apply to each Subsequent Approval.

(g) Limitation on Architectural Review Approvals. To the extent that the Project Approvals or Applicable Rules require further decisions, determinations or actions pertaining to architectural review and/or site and design review (collectively "Architectural Review Approval"), the decision in all cases shall be made by the Director of Planning and Community Environment, after recommendation by the Architectural Review Board, subject only to appeal to the City Council, pursuant to Section 18.77.070 of the Municipal Code as set forth in the Applicable Rules, without review or recommendation by the Planning and Transportation Commission. Further, in each case, Architectural Approval shall be limited to determining consistency with the Design Guidelines and Hospital Zoning Ordinance. City shall process any application for Architectural Review Approval expeditiously and, to the extent feasible, in accordance with the time schedule set forth on Exhibit D. The provisions of this Section 6(g) shall apply to each architectural review or site and design review process undertaken and Architectural Review Approval granted with regard to any portion of the Project.

(h) Phasing Schedule. **[NOTE: Parties have not agreed on Phasing Schedule provisions.]**

(i) Annexation of County Property. City shall petition the Local Agency Formation Commission (LAFCO) to annex to City the County Property in accordance with the time schedule set forth on Exhibit D. The SUMC Parties shall cooperate by executing all necessary documents, by providing all information requested by City acting as the conducting authority for purposes of the annexation proceedings, and by attending annexation hearings and testifying in favor of the annexation. The SUMC Parties shall be responsible for paying all reasonable costs of the annexation.

(j) Utility and Storm Drain Connections. Unless prohibited by a moratorium lawfully adopted by another governmental agency, or by action taken by City in accordance with Sections 7 or 8, or by state or federal law, City shall allow the SUMC Parties to connect the Project to the City's sanitary sewers, storm drains, water system, gas system and electrical system in accordance with its generally applicable rules in effect at the time of application for service and shall issue all permits and authorizations necessary for such connections and service in accordance with such generally applicable rules. A moratorium shall not prevent the issuance of Discretionary Approvals or ministerial approvals for the Project, provided that City shall not be required to allow any connections or provide any services barred by the moratorium.

(k) Waste Treatment Capacity. Subject to any limitation imposed by state or federal law, in the event of a moratorium preventing or limiting sanitary sewer connections, the SUMC Parties shall have priority for sanitary sewer treatment capacity for the Project over other unbuilt residential, commercial or industrial development until December 31, 2025. In addition, the SUMC Parties shall have priority over new commercial space built or approved subsequent to the Effective Date, including but not limited to retail, office and industrial space, until December 31, 2025. These priorities apply to both "domestic waste" and "industrial waste."

(l) Storm Drain Capacity. Subject to any limitation imposed by state or federal law, in the event of a moratorium preventing or limiting discharge or increased runoff to storm drains, the SUMC Parties shall have priority for use of storm drains for the Project over other unbuilt commercial development until December 31, 2025. The SUMC Parties also shall have priority over new commercial space built or approved subsequent to the Effective Date, including but not limited to retail, office, and industrial space, until December 31, 2025.

(m) OSHPD. City recognizes that, pursuant to the HSSA, (i) OSHPD has exclusive jurisdiction of certain aspects of design and construction, including construction of associated infrastructure, of hospital

buildings, including plan review, issuance of building permits, building inspections, and issuance of certificates of occupancy, and, (ii) certain OSHPD standards and rules apply to non-hospital buildings that provide outpatient clinical services. In the event that any OSHPD requirement conflicts with the Project Approvals, the City shall (a) approve revisions to Project Approvals or, as necessary, grant Subsequent Approvals for modifications that are not inconsistent with the Hospital Zoning Ordinance, or, (b) if necessary modifications would be inconsistent with the Hospital Zoning Ordinance, promptly and in good faith enter into negotiations with the appropriate SUMC Parties for such modifications to the Project Approvals as are necessary to conform to the conflicting OSHPD requirement so that the public benefits and objectives of this Agreement will be achieved at the earliest feasible date. The approval of such revisions or modifications shall be determined in the first instance by the Director of Planning and Community Environment, subject to review only by expedited appeal to the City Council.

(n) No Other Dedications. Except as may be required to provide City-owned public utilities to the Project and emergency vehicle access, and except as otherwise set forth in this Agreement or the Project Approvals, or as may be agreeable to the SUMC Parties, the SUMC Parties shall not be required to make any dedications or reservations of the Property, or any portion thereof or interest therein, or of any other property in connection with the development, construction, use, or operation of the Project, or any portion thereof.

(o) No Other Public Improvements or Financial Contributions. Except as may be required under the Conditions of Approval, in connection with the relocation of City-owned public utilities under Welch Road, the gas line retrofitting on Welch Road, or restoration of any public improvements impacted by the Project construction the SUMC Parties shall not be required to construct public improvements or make financial contributions to City in lieu of public improvements as part of the Project, except as expressly set forth in this Agreement, or as may be agreeable to the SUMC Parties, or as provided in the Project Approvals.

(p) No Obligation to Develop. The SUMC Parties shall have no obligation to develop the Project, or any component of it. The SUMC Parties may develop the Project in their sole discretion in accordance with their own time schedule, subject to the terms and conditions of this Agreement. The SUMC Parties may develop and construct the Project in any sequence or phases, in their sole discretion.

(q) Timing for Performance of Conditions of Approval. The SUMC Parties may request in writing a change in the time of performance of any Condition of Approval. Within a reasonable time of receiving the request, the City Manager or his or her designee (a) shall determine whether additional environmental review is required because of the proposed

change; (b) may condition approval of the proposed change upon changes in the timing of related conditions or mitigation measures; and, finally, (c) shall approve, conditionally approve or deny the requested change. Within a reasonable time of receiving the City Manager's decision on the request, the SUMC Parties shall give written notice of its acceptance or of its withdrawal of the request. The change shall be effective upon receipt by the City of the notice of acceptance.

7. Exceptions. To the extent Subsequent Rules (including a moratorium otherwise lawfully adopted by City) conflict with the Applicable Rules, they may be applied to the Project without the consent of the SUMC Parties only (i) if City determines that application of such Subsequent Rules is necessary to protect against conditions that create a substantial and demonstrable risk to the physical health or safety of residents or users of the site to which the Subsequent Rules apply or the affected surrounding region; or (ii) if such Subsequent Rules are mandated or required by supervening federal, state or regional statute or regulation; or (iii) if otherwise provided by this Agreement.

8. Exclusions.

(a) Sewer Facilities, Storm Drains and Runoff. This Agreement does not affect the SUMC Parties' obligations, if any, to pay for or construct improvements in the storm drain system required to implement the Project, nor does it affect the SUMC Parties' obligations to meet any applicable federal, state and local discharge limits and requirements pertaining to sewer facilities, storm drains or runoff.

(b) Limited Effect on Right to Tax, Assess, or Levy Fees or Charges Except as expressly provided herein, this Agreement does not limit the power and right of the City to impose the same taxes, levy the same assessments, or require the payment of the same permit fees and charges by the SUMC Parties as the City requires for all other nonresidential development or property on a citywide basis. The SUMC Parties shall be required to pay all Development Impact Fees in effect on the Effective Date, as provided in this Section 8(b), subject to the SUMC Parties' right to protest and/or pursue a challenge in law or equity to the new or increased Development Impact Fee. The SUMC Parties shall not be required to pay any new Development Impact Fees adopted after the Effective Date through December 31, 2019, unless such payment becomes due under the Applicable Rules or this Agreement on or after January 1, 2020. Further, the City shall not require the SUMC Parties to pay any increase in the amount of a Development Impact Fee, except as set forth in this Section 8(b) and the amount of the Development Impact Fees shall be calculated as set forth in this Section 8(b). All fees, charges, taxes and assessments permitted by this Agreement, and as modified from time to time, are Subsequent Applicable Rules. For buildings subject to OHSPD jurisdiction, City fees shall be considered due not later than 30 days after issuance of the Hospital Foundation

Permit from OSHPD. In no event may any fees be paid later than the date for payment under the Applicable Rules.

(i) All provisions and requirements of the this Agreement and the Applicable Rules to the contrary notwithstanding, the SUMC Parties shall have the following options with respect to the timing of payment of Development Impact Fees , and the rates of Development Impact Fees will be calculated as follows:

(a) If the SUMC Parties elect to pay or prepay all or any portion of the Development Impact Fees between the Effective Date and December 31, 2011, the SUMC Parties shall pay such fees at the rate in effect on the Effective Date;

(b) If the SUMC Parties elect to pay or prepay all or any portion of the Development Impact Fees on or after January 1, 2012 through and including December 31, 2019, the SUMC Parties shall pay such fees at the rate applicable citywide to nonresidential development at the time of payment; except that the City shall not require the SUMC Parties to pay any increase in a Development Impact Fee that exceeds an amount calculated according to the rate in effect on the Effective Date and adjusted to reflect the change in the San Francisco Bay Area Consumer Price Index from January 1, 2012 to the date of payment.

(c) If the SUMC Parties elect to pay all or any portion of the Development Impact Fees on or after January 1, 2020, the SUMC Parties shall pay such fees at the rate applicable citywide to nonresidential development at the time of payment, subject to the SUMC Parties' right to protest and/or pursue a challenge in law or equity to the increased fee.

(ii) The SUMC Parties shall not receive any credit against any City Development Impact Fees for any community benefits provided pursuant to this Agreement.

(iii) Payment of the city-wide Transportation Impact Fees in accordance with this Agreement shall constitute the Project's entire fair share contribution to the following transportation mitigation measures: TR 2.1 (contribution to traffic adaptive signal technology in Palo Alto); TR 2.2 (contribution to Everett undercrossing in Palo Alto); and TR 7.2 (contribution to Palo Alto Crosstown Shuttle).

(iv) Except as provided in this Section 8(b), the SUMC Parties shall pay Development Impact Fees in accordance with the Applicable Rules, on the basis of Net New Square Footage.

(v) Nothing in this Agreement shall preclude the City from collecting fees from the SUMC Parties that are lawfully imposed on the Project by another entity having jurisdiction over the Project which the City is required or authorized to collect pursuant to applicable laws.

(c) No Limit on Right of City to Adopt and Modify Uniform Codes. This Agreement does not limit the right of the City, to the extent permitted by state law, to adopt Building, Plumbing, Electrical, Fire and similar uniform construction codes, and to adopt local modifications of those codes, from time to time. Those codes, as modified from time to time, are Subsequent Applicable Rules.

(d) No Limit on Power of City to Adopt and Apply Rules Governing Provision and Use of Utility Services. Except as expressly provided in Section 6, this Agreement does not limit the power and right of the City to adopt and amend from time to time rules and procedures governing the provision and use of utility services provided by the City. These rules, as modified from time to time, are Subsequent Applicable Rules. If there is any conflict between such Rules and Section 6, the latter shall control.

(e) California Environmental Quality Act Compliance (CEQA). The City has prepared and certified an EIR and has imposed mitigation measures as Conditions of Approval prior to the execution of this Agreement. This Agreement does not limit the City's duty to comply with the provisions of CEQA and the associated Guidelines, and to comply with the provisions of its own local CEQA procedures, as they may be amended from time to time, that comply with the provisions of section 21082 of CEQA. However, the City shall not undertake additional environmental review under CEQA unless required to do so by CEQA. In the event that any such further environmental review is required for a Subsequent Approval or other Discretionary Action, it shall be in accordance with Sections 15162-15164 of the CEQA Guidelines, and the scope of analysis and evaluation shall be as required by CEQA.

(f) No General Limitation on Future Exercise of Police Power. The City retains its right to exercise its general police power

except when such exercise would conflict with the vested rights granted under this Agreement. The police powers so retained and enforceable under this Agreement shall include, but are not limited to, the enactment of regulations concerning the disposition of construction and demolition materials that apply generally to the City.

9. Indemnity. To the maximum extent permitted by law, the SUMC Parties shall defend, indemnify and hold harmless the City, its City Council, its officers, employees and agents (each an "Indemnified Party" and collectively the "Indemnified Parties") from and against any claim, action, or proceeding brought by any third party against the Indemnified Parties to attack, set aside, or void any of the Project Approvals, or any Subsequent Approvals. The SUMC Parties shall take the lead role in defending any such claim, action or proceeding, and may, in their sole discretion, elect to be represented by the attorneys of their choice. The City may, in its sole discretion, elect to be represented by the attorneys of its choice in any such action or proceeding, with the reasonable costs of such representation to be paid by the SUMC Parties. The SUMC Parties and the City shall fully coordinate and cooperate in the defense of any such action and shall keep each other fully informed of all developments relevant to such defense, subject only to confidentiality requirements and any privileges or legal doctrines that may prevent the communication of any such information. The SUMC Parties' obligations set forth in this Section 9 shall survive any suspension or termination of this Agreement, regardless of cause.

10. Cooperation and Implementation. The Parties shall cooperate to implement this Agreement in a manner that ensures that all Parties realize the intended benefits of the Agreement. With respect to the City, such cooperation shall include, but without limitation, diligent processing of applications for approval of development of the Project that comply with the Project Approvals, Applicable Rules and Subsequent Applicable Rules, and the City shall not unreasonably deny or delay any Discretionary Action, Subsequent Approval or OSHPD approval that is necessary to the exercise of the rights vested in the SUMC Parties by this Agreement. Such cooperation shall include, but without limitation, prompt compliance by each Party with all requests by another Party for materials and information necessary to determine the responding Party's compliance with this Agreement, and the diligent provision and implementation of all community benefits and voluntary mitigation measures to be provided by the SUMC Parties under this Agreement and the City's expenditures of funds for the purposes described in this Agreement.

11. Identification of Applicable Rules. Prior to the Effective Date, the Parties will use reasonable efforts to identify and assemble four (4) sets of the Applicable Rules, one (1) set for the City and one (1) set for each of the SUMC Parties, so that if it becomes necessary in the future to refer to any of the Applicable Rules, there will be a common set of the Applicable Rules available to each Party. Failure by City to identify or assemble written Applicable

Rules shall in no manner limit City's ability to later identify or use such Applicable Rules.

12. Periodic Review of Compliance.

(a) Periodic Review. City shall review this Agreement annually, in accordance with the procedures and standards set forth in this Agreement and City of Palo Alto City Council Resolution No. 6597 in order to ascertain the SUMC Parties' compliance with the terms of the Agreement. The SUMC Parties shall submit an annual report (the "Annual Report") to the Director of Planning and Community Environment (the "Planning Director"), in the form and containing the content described in Section 12(c) below, each year within thirty (30) days after the anniversary of the Effective Date. The Annual Report shall be accompanied by an annual review fee sufficient to cover the estimated costs of review of the Annual Report. The amount of the annual review fee shall not exceed the City's actual, reasonable costs for such review. Within forty-five (45) days of receipt of the SUMC Parties' Annual Report, the City shall prepare and submit to the SUMC Parties a Supplement to the Annual Report, in the form and containing the content described in Section 12(d) below, to demonstrate the City's good faith compliance with the terms of this Agreement.

(b) Special Review. The City Council may order a special review of compliance with this Agreement any time the City Council determines that the SUMC Parties may be in breach of the Agreement. The Planning Director or City Council, as determined from time to time by the City Council, shall conduct such special reviews, at the City's expense.

(c) Annual Report. The Annual Report to be submitted by the SUMC Parties pursuant to Section 12(a) above shall summarize the SUMC Parties' progress on the Project, including, at a minimum (i) a list of the net new square footage for which a certificate of occupancy has been received; and (ii) a description of the steps the SUMC Parties have taken to comply with the obligations listed in Section 5 of this Agreement.

(d) Supplement to the Annual Report. The Supplement to the Annual Report to be submitted by the City pursuant to Section 12(a) above shall include an accounting of the funds received by the City, including a description of describe the account balances for each of the funds that the City is required to maintain under Section 5 of this Agreement ("City Funds"), the City's expenditures from each of the City Funds, and the purposes for which the expenditures were used. The City's descriptions of the expenditures shall be at the level of detail the SUMC Parties reasonably determine is necessary to confirm that the City's expenditures from the City Funds are consistent with the terms of Section 5 of this Agreement. The City's report shall be included in any hearings held by the City pursuant to Section 12(e) of this Agreement. The City

shall bear the burden of proof that the City has complied with the requirements of Section 5 for use of funds paid by the SUMC parties.

(e) Procedure.

(1) During either a periodic review or a special review, the SUMC Parties shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on the SUMC Parties. During the periodic or special review, the City may rely on information in addition to that provided in the Annual Report prepared by the SUMC Parties pursuant to Section 12(a) above. The Parties acknowledge that failure by the SUMC Parties to demonstrate good faith compliance shall constitute grounds for termination or modification of this Agreement in accordance with the provisions of this Section 12.

(2) Upon the SUMC Parties' submission of the Annual Report to the Planning Director, the Planning Director shall review the Annual Report and, based on the Annual Report and any other information available to the Planning Director relating to the SUMC Parties' compliance with the Agreement, prepare and submit a report (the "Planning Director's Report") to the City Council setting forth the evidence concerning good faith compliance by the SUMC Parties with the terms of this Agreement and the recommended finding on that issue.

(3) The City Council shall review the Planning Director's report, the Annual Report submitted by the SUMC Parties, and any other information available to the City Council relating to the SUMC Parties' compliance with the Agreement.

(4) If, upon completing its review, the City Council finds that the SUMC Parties have complied in good faith with the terms and conditions of this Agreement, the review shall be concluded.

(f) Default by SUMC Parties. If, upon completing its review described in Section 12(e), the City Council makes a finding, on the basis of substantial evidence, that the SUMC Parties have not complied in good faith with the terms and conditions of this Agreement, the City shall provide written notice to the SUMC Parties describing: (i) such failure to comply with the terms and conditions of this Agreement (referred to herein as a "Default"), (ii) whether the Default can be cured, (iii) the actions, if any, required by the SUMC Parties to cure such Default, and (iv) the time period within which such Default must be cured. If the Default can be cured, the SUMC Parties shall have at a minimum 90 days after the date of such notice to cure such Default, or in the event that such Default cannot be cured within such 90-day period but can be cured within one (1) year, the SUMC Parties shall have commenced the actions necessary to cure such Default and shall be diligently proceeding to complete

such actions necessary to cure such Default within 90 days from the date of the notice. If the Default cannot be cured or cannot be cured within one (1) year, as determined by City during the periodic or special review, the City Council may modify or terminate this Agreement as provided in Section 12(g) and Section 12(h).

(g) Proceedings Upon Modification or Termination. If, upon a finding under Section 12(f) and the expiration of the cure period specified in Section 12(f) above, City determines to proceed with modification or termination of this Agreement, City shall give written notice to the SUMC Parties of its intention so to do. The notice shall be given at least ten calendar days before the scheduled hearing and shall contain:

(1) The time and place of the hearing;

(2) A statement as to whether or not the City proposes to terminate or to modify the Agreement; and

(3) Such other information as is reasonably necessary to inform the SUMC Parties of the nature of the proceeding.

(h) Hearings on Modification or Termination. At the time and place set for the hearing on modification or termination, the SUMC Parties shall be given an opportunity to be heard and shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on the issue shall be on the SUMC Parties. If the City Council finds, based upon substantial evidence, that the SUMC Parties has not complied in good faith with the terms or conditions of the Agreement, the City Council may terminate this Agreement or modify this Agreement in a manner mutually acceptable to the Parties to address the Default. The decision of the City Council shall be final and subject to judicial review as provided in Section 14, below.

(i) Certificate of Compliance. If, at the conclusion of a periodic or special review, the SUMC Parties are found or deemed to be in compliance with this Agreement, City shall, upon request by the SUMC Parties, issue a Certificate of Compliance ("Certificate") to the SUMC Parties stating that after the most recent periodic or special review and based upon the information known or made known to the Planning Director and City Council that: (1) this Agreement remains in effect, and (2) the SUMC Parties are not in Default. The Certificate shall be in recordable form, shall contain information necessary communicate constructive record notice of the finding of compliance, shall state whether the Certificate is issued after a periodic or special review and shall state the anticipated date of commencement of the next periodic review. The SUMC Parties may record the Certificate without cost or expense to City.

13. Default by City. If the SUMC Parties determine that City has failed to comply with any of the City's obligations under this Agreement, the SUMC Parties may provide written notice to the City describing its contentions regarding (i) such failure to comply with the terms and conditions of this Agreement (referred to herein as a "City Default"), (ii) whether the City Default can be cured, (iii) the actions, if any, required of City to cure such City Default, and (iv) the time period within which such City Default must be cured. If the City Default can be cured, City shall have at least 90 days after the date of such notice to cure such Default, or in the event that such City Default cannot be cured within such 90 days period but can be cured within one year, City shall have commenced all actions necessary to cure such Default and shall be diligently proceeding to complete all such actions necessary to cure such Default within 90 days from the date of notice. If the SUMC Parties contend that the City Default cannot be cured or cannot be cured within one year, or if City fails to cure within the applicable cure period as provided in this Section 13, the SUMC Parties shall give notice to City of its contentions before pursuing the remedies described in Section 14.

14. Remedies for Default. It is acknowledged by the Parties that City would not have entered into this Agreement if doing so would subject it to the risk of incurring liability in damages, either for breach of this Agreement, anticipatory breach, repudiation of the Agreement, or for any actions with respect to its implementation or application. The Parties intend by the provisions of this Section 14 that none of the Parties shall have any liability for money damages arising out of a breach of this Agreement, and no liability in money damages for any claims arising out of the application process, negotiation, execution and adoption, or the implementation or application of this Agreement.

Each of the Parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, including but not limited to temporary or permanent injunctive relief or restraining orders, except that the Parties shall have no liability in damages for any acts which are alleged to have arisen out of or relate to this Agreement, under any circumstances.

The Parties further acknowledge that money damages and remedies at law generally are inadequate, and specific performance is the most appropriate remedy for the enforcement of this Agreement and should be available to all Parties for the following reasons:

(a) Money damages are excluded as provided above.

(b) Due to the size, nature, and scope of the Project, it may not be practical or possible to restore the Property to its original condition once implementation of this Agreement has begun. After such implementation, the SUMC Parties may be foreclosed from other

choices they may have had to utilize the Property or portions thereof. The SUMC Parties have invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate the SUMC Parties for such efforts.

Except for non-damages remedies, including the remedy of specific performance, the SUMC Parties, on the one hand, and the City, on the other hand, for themselves, their successors and assignees, hereby release one another's officers, trustees, directors, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth and Fourteenth Amendments of the United States Constitution, or any other law or ordinance which seeks to impose any money damages, whatsoever, upon the Parties because the Parties entered into this Agreement, because of the terms of this Agreement, or because of the manner of implementation or performance of this Agreement.

All legal actions shall be heard by a reference from the Santa Clara County Superior Court pursuant to Code of Civil Procedure Section 638, et seq. The parties to the action shall agree upon a single referee who shall then try all issues, whether of fact or law, and report a finding and judgment thereon and issue all legal and equitable relief appropriate under the circumstances of the controversy before the referee. If the parties to the action are unable to agree on a referee within ten (10) days of a written request to do so by any Party , any Party may seek to have one appointed pursuant to Code of Civil Procedure section 640. The cost of such proceeding shall initially be borne equally by the parties to the action. Any referee selected pursuant to this Section 13 shall be considered a temporary judge appointed pursuant to Article 6, Section 21 of the California Constitution.

15. Modification, Amendment or Cancellation by Mutual Agreement. Subject to meeting the notice and hearing requirements of Section 65867 of the Development Agreement Act, this Agreement may be modified, amended, or cancelled at any time by mutual consent of the Parties in accordance with the provisions of Section 65868 of the Development Agreement Act and City's Resolution No. 6597.

16. Superseding State or Federal Law. In the event that any state or federal law or regulation enacted or adopted after the date of this Agreement shall prevent or preclude compliance with any of the provisions hereof, such provisions shall be modified or suspended only to the extent and for the time necessary to achieve compliance with said law or regulation and the

remaining provisions of this Agreement shall be in full force and effect. Upon repeal of said law or regulation or occurrence of other circumstances removing the effect thereof upon this Agreement, the provisions hereof shall be restored to their full original effect.

17. Notices. All notices required or provided for under this Agreement shall be in writing and shall be delivered personally or by overnight courier service or sent by certified or registered mail, return receipt requested. Any notice shall be deemed to have been duly given and received upon receipt. Notices to the parties shall be addressed as follows:

City: City Manager
City of Palo Alto
250 Hamilton Avenue
Palo Alto, California 94301

with copies to:

City Attorney
City of Palo Alto, 8th Floor
250 Hamilton Avenue
Palo Alto, California 94301

Director of Planning and Community Environment
City of Palo Alto, 5th Floor
250 Hamilton Avenue
Palo Alto, California 94301

SHC: _____
_____
_____

with a copy to: _____
_____
_____

LPCH: _____
_____
_____

with a copy to: _____
_____
_____

University: _____

_____
_____

with a copy to: _____
_____
_____

Any Party may change its address for notice by giving ten (10) days' notice of such change in the manner provided for in this paragraph.

18. Term of Agreement; Force Majeure.

(a) Basic Term. Except as to those obligations that expressly extend beyond the stated Term of the Agreement, the Term of this Agreement shall commence as of the Effective Date, and shall continue for thirty (30) years from the adoption of the Ordinance authorizing this Agreement or until earlier terminated by mutual consent of the Parties or as otherwise provided by this Agreement, Upon the termination of this Agreement, no Party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to such termination or with respect to any obligations which are specifically set forth as surviving this Agreement.

(b) Extension for Default or Moratorium. If a Party is deprived of a benefit under this Agreement as a result of referendum of one or more of the Project Approvals; litigation challenging one or more of the Project Approvals or one or more Subsequent Approvals, a moratorium or a default by the other Party, then the Party so deprived may elect to extend the Term of this Agreement with respect to that benefit for the duration of the moratorium or default.

(c) Force Majeure. Performance by either the SUMC Parties, on the one hand, or the City, on the other hand, of an obligation hereunder shall be excused during any period of "Permitted Delay." Permitted Delay shall mean delay beyond the reasonable control of a Party including, without limitation, an inability to perform caused by (a) acts of God, including without limitation earthquakes, floods, fire, and other natural calamities, (b) civil commotion; (c) riots or terrorist acts; (d) strikes or other forms of material labor disputes; (e) shortages of materials or supplies; and (f) vandalism. A Party's financial inability to perform shall not be a ground for claiming a Permitted Delay. The Party claiming the Permitted Delay shall notify the other Party of its intent to claim a Permitted Delay, the specific grounds of the same and the anticipated period of the Permitted Delay within 10 business days after the occurrence of the conditions which establish the grounds for the claim. The period of Permitted Delay shall last not longer than the conditions preventing performance.

19. Assignment; Right to Assign.

(a) Assignment.

(1) Right to Assign. Each of the SUMC Parties shall have the right to sell, transfer or assign its interest in the Property, in whole or in part (provided that no such partial transfer shall be permitted to cause a violation of the Subdivision Map Act, Government Code section 66410, et seq.), to any person or entity at any time during the term of this Agreement; provided:

(i) Concurrently with any such sale, transfer or assignment, or within ten (10) business days thereafter, the transferor shall notify City, in writing, of such sale, transfer or assignment and shall provide City with an executed agreement, in a form reasonably acceptable to the City, by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes all the duties and obligations of the transferor under this Agreement.

(ii) No sale, transfer or assignment of any right or interest under this Agreement shall be made without the prior written consent of the City Council, which consent may not be unreasonably withheld.

Notwithstanding the failure of any purchaser, transferee or assignee to execute the agreement required by subparagraph (i) above, the burdens of this Agreement shall be binding upon such purchaser, transferee or assignee, but the benefits of this Agreement shall not inure to such purchaser, transferee or assignee until and unless such agreement is executed.

(2) Release of Transferor. Notwithstanding any sale, transfer or assignment, the transferring Party shall continue to be obligated under this Agreement unless such Party is given a release in writing by City, which release will be provided by City upon the full satisfaction by the transferring Party of all the following conditions:

(i) The transferring Party no longer has a legal or equitable interest in the portion of the Property being transferred.

(ii) The transferring Party is not then in default and default proceedings have not been commenced by City under this Agreement.

(iii) The transferring Party has provided City with the notice and executed agreement required under Section 19(a)(1)(i) above.

(iv) The purchaser, transferee or assignee provides City with security reasonably satisfactory to City to secure performance of its obligations under this Agreement.

Nothing contained in this Section 19 shall prevent a transfer of the Property, or any portion thereof, to an institutional lender or Mortgagee as a result of a foreclosure of a Mortgage or deed in lieu of foreclosure, and any lender or Mortgagee acquiring the Property, or any portion thereof, as a result of foreclosure of a Mortgage or a deed in lieu of foreclosure shall take such Property subject to the terms of this Agreement; provided, however, in no event shall such lender or Mortgagee be liable for any defaults or monetary obligations of the SUMC Parties arising prior to acquisition of title to the Property by such lender or Mortgagee; and provided further in no event shall any such lender or Mortgagee or its successors or assigns be entitled to a building permit or occupancy certificate for any portion of the Project until all fees due under this Agreement have been paid to City, until all outstanding obligations of the SUMC Parties have been performed, and until any and all outstanding Defaults have been cured.

20. Mortgagee Protection. The Parties hereto agree that this Agreement shall not prevent or limit any of the SUMC Parties in any manner, at their sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any Mortgage securing financing with respect to the Property or development of the Property. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and shall upon request, from time to time, meet with any of the SUMC Parties and representatives of such lenders to consider any such request for interpretation. City will not unreasonably withhold its consent to any such requested interpretation provided such interpretation is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

(a) No Impairment. Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust on the Property made in good faith and for value.

(b) Notice of Default by the SUMC Parties. The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee, has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any Default by the SUMC Parties in the performance of the SUMC Parties' obligations under this Agreement.

(c) Notice. If City timely receives a request from a Mortgagee requesting a copy of any notice of default given to any of the

SUMC Parties under the terms of this Agreement, City shall provide a copy of that notice to the Mortgagee within twenty (20) days of sending the notice of default to the SUMC Parties. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such Party under this Agreement.

(d) Transfer of Ownership. Mortgagee shall have the rights set forth in the last paragraph of Section 18 above.

21. Miscellaneous.

(a) Effect of Recitals. The Recitals are intended in part to paraphrase and summarize this Agreement, however, the terms, covenants and conditions of this Agreement are expressed with particularity in Section 1 et seq. and the rights and obligations of the Parties are to be determined by the terms of the Agreement and not by the Recitals. To the extent the Recitals provide factual context for the Agreement, they may be considered when interpreting the terms and provisions of the Agreement.

(b) Construction. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties. This Agreement has been reviewed and revised by legal counsel for each Signatory Party, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement. Each Signatory Party has consulted with counsel and determined that this Agreement accurately and completely reflects the agreement of the Parties.

The captions of the sections and subsections of this Agreement are solely for the convenience of reference and shall be disregarded in the construction and interpretation of this Agreement.

(c) Severability. If any terms of this Agreement are determined to be invalid, void, or unenforceable, the remainder of this Agreement shall not be affected to the extent the remaining terms are not rendered impractical or impossible to perform taking into consideration the purposes of this Agreement.

(d) Time. Time is of the essence of this Agreement and of each and every term and condition hereof.

(e) Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized

representative of the Party against whom enforcement of a waiver is sought. No waiver of any right or remedy in respect of any occurrence or event shall be deemed a waiver of any right or remedy in respect of any occurrence or event.

(f) Governing State Law. This Agreement shall be construed in accordance with the laws of the state of California.

(g) Determination of Compliance. At any time during the Term of this Agreement, any Party or its lender, may request any Party to this Agreement to confirm that to the best of such Party's knowledge, no defaults exist under this Agreement or if defaults do exist, to describe the nature of such defaults. Each Party shall provide such a determination to such lender or other Party within forty-five (45) days of the request therefor. The failure of any Party to provide the requested determination within such forty-five (45) day period shall constitute a confirmation that to the best of such Party's knowledge, no defaults exist under this Agreement. Request for such determinations shall be made in writing and as required by Section 17 above.

(h) Entire Agreement. This Agreement contains the entire understanding and agreement of the Parties. There are no oral or written representations, understandings, undertakings, or agreements that are not contained or expressly referred to herein, and any such representations, understandings, or agreements are superseded by this Agreement. No evidence of any such representations, understandings, or agreements shall be admissible in any proceeding of any kind or nature relating to the terms or conditions of this Agreement, its interpretation, or breach.

(i) No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the signatory Parties and their successors and assigns, including Mortgagees. No other person shall have any right of action based upon any provision of this Agreement.

(j) Authority to Execute. Each person executing this Agreement warrants and represents that he or she has the authority to bind the signatory Party for which he or she is signing to the performance of its obligations hereunder.

(k) Administrative Appeal. Whenever in the Applicable Rules or Subsequent Applicable Rules any requirement or action by the SUMC Parties is made subject to the approval or satisfaction, however expressed, of any entity other than City, such condition shall not be interpreted as providing the third party the right to make any final decision other than as may be authorized by law other than the Applicable Rules or Subsequent Applicable Rules. Where a third party has no right authorized by law other than the Applicable Rules or Subsequent Applicable Rules to make a final decision, a

condition requiring approval or satisfaction of such third party, however expressed, shall mean that the third party shall provide, as appropriate, advice, consultation, a recommendation and/or an initial decision regarding the condition. The actual determination in such case will be made by the official or entity of City required or authorized to make such determination in accordance with the applicable provisions of the Palo Alto Municipal Code as set forth in the Applicable Rules. Appeals from determinations made by City officials or entities shall be made in accordance with applicable provisions of the Palo Alto Municipal Code as set forth in the Applicable Rules.

(l) Exhibits.

The following exhibits to which reference is made in this Agreement are deemed incorporated herein in their entirety:

Exhibit A – Property Description

Exhibit B – Project Approvals

Exhibit C – City Processing Schedule

Exhibit D – Anticipated Project Phasing Schedule **[NOTE: Parties have not agreed on Phasing Schedule provisions]**

If the recorder refuses to record any exhibit, the City Clerk may replace it with a single sheet bearing the exhibit identification letter, stating the title of the exhibit, the reason it is not being recorded, and that the original, certified by the City Clerk, is in the possession of the City Clerk and will be reattached to the original when it is returned by the recorder to the City Clerk.

(m) Signature Pages. For convenience, the signatory Parties may execute and acknowledge this Agreement on separate signature pages, which, when attached hereto, shall constitute one complete agreement.

(n) Precedence. If any conflict or inconsistency arises between this Agreement and the Applicable Rules or the Subsequent Rules, the provisions of this Agreement shall have precedence and shall control over the conflicting or inconsistent provisions of the Applicable Rules or Subsequent Rules.

(o) Recordation. Whenever recordation is required or may be required by either Party, City shall be responsible for recordation. If City fails to record a document when required, the SUMC Parties may, but are not obligated to, record the document and by doing so the SUMC Parties do not assume the duties or obligations of City established by this Section

or the Development Agreement Act nor does it waive any right it may have to compel City to properly perform its duties and obligations. The failure of City to record or to properly record this Agreement or any other document as provided herein shall not affect or limit in any way the SUMC Parties' rights to enforce this Agreement and to rely upon it.

(p) Referendum or Challenge. In the absence of a referendum petition, City shall not unilaterally submit the Project Approvals or the Ordinance approving this Agreement to a referendum by action of the City Council on its own motion without the SUMC Parties' consent. In addition to the remedies set forth in Section 18(b), if the Project Approvals or the Ordinance approving this Agreement is the subject of a referendum, or if litigation is commenced seeking to rescind the Project Approvals or the City's decision to enter into this Agreement or to declare this Agreement void, each Party shall have the right to terminate this Agreement by written notice to the other Parties no later than thirty (30) days after the event that gives a Party the right to terminate, or such later time allowed in writing by the non-terminating Party or Parties. The Parties may also by mutual agreement suspend performance of all or part of the obligations in this Agreement pending the outcome of any such referendum or litigation.

(1) City's Reimbursement Obligation. If the Project Approvals or the Ordinance approving this Agreement is challenged by a legal action as described in this Section 21(p), the City shall return payments made by the SUMC Parties to the City according to the following requirements:

a. If the legal action is filed with the court before 90 days have elapsed from the filing with the County Clerk by the City of the Notice of Determination following the second reading of the ordinance approving the Hospital District zoning and the ordinance approving this Agreement (the "NOD"), then the City shall return all payments made by the SUMC Parties pursuant to Section 5 of this Agreement, within 30 days of the City's receipt of a written request by the SUMC Parties.

b. If the legal action is filed with the court more than 90 days but less than one year after the filing with the County Clerk by the City of the NOD, then the City shall return payments made by the SUMC Parties pursuant to Section 5 of this Agreement, within 30 days of the City's receipt of a

written request by the SUMC Parties, as follows:

(1) Section 5(a)(ii) (Fund for Healthcare Services) Payments. The City shall return to the SUMC Parties such portions of payments made by the SUMC Parties pursuant to Section 5(a)(ii) that have not been disbursed through the City's Human Relations Committee or otherwise, and contractually committed to a third party community health care program by the City.

(2) Section 5(e)(i) (Affordable Housing and Sustainable Neighborhoods and Communities) Payments. The City shall return to the SUMC Parties such portions of payments made by the SUMC Parties pursuant to Section 5(e)(i) that have not been contractually committed by the City to a third party.

(3) Section 5(f)(i) (Sustainability Programs) Payments. The City shall return to the SUMC Parties such portions of payments made by the SUMC Parties pursuant to Section 5(f)(i) that have not been contractually committed by the City to a third party.

c. If the legal action is filed with the court one year or more after the filing with the County Clerk by the City of the NOD, or if neither Party elects to terminate the Agreement pursuant to Section 21(p) above, then the City shall have no obligation to return any payments already made by the SUMC Parties to the City pursuant to this Agreement but the SUMC Parties shall have no obligation to make further payments if the Agreement is terminated or suspended.

(2) Effect of Suspension or Termination of Agreement. If the Parties mutually agree to suspend performance of all or part of the obligations in this Agreement pending the outcome of the legal action pursuant to

Section 21(p) above, the agreement to suspend performance shall address the terms under which the SUMC Parties' payment obligations under Section 5 shall be reinstated.

(3) Limit of City's Reimbursement Obligations. Except as specifically set forth in this Section 21(p), the City shall have no obligation to return any payments made by the SUMC Parties pursuant to this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the parties as of the day and year first above written.

**ATTEST:**

_____
City Clerk

**CITY OF PALO ALTO**

_____
Mayor

**APPROVED AS TO FORM:**

_____
City Attorney

**APPROVED:**

_____
City Manager

**APPROVED AS TO CONTENT:**

_____
Director of Planning and
Community Environment

**STANFORD HOSPITAL AND CLINICS**

By: _____

Name: _____

Title: _____

**LUCILE SALTER PACKARD CHILDRENS HOSPITAL AT STANFORD**

By: _____

Name: _____

Title: _____

**THE BOARD OF TRUSTEES OF THE LELAND STANFORD UNIVERSITY**

By: _____

Name: _____

Title: _____

Attachment C

APPLIED
DEVELOPMENT
ECONOMICS

# MEMO

**To:** Joe Saccio, Assistant Director
Palo Alto Department of Administrative Services

**From:** Doug Svensson, AICP

**Date:** March 9, 2011

**Re:** SUMC Fiscal Analysis with Inflation

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## Update in Project Phasing

In their memo dated January 12, 2011, CBRE indicated that the phasing of the proposed SUMC project has shifted. I have revised our fiscal impact analysis of the project to reflect the new phasing, which follows the construction schedule in the early years and the ramp-up of permanent staff following completion of Phase 1 in 2017. The table below shows the revised analysis at specific points in the project phasing. The increase in cumulative net revenue between 2011 and 2017 reflects mainly the payment of Use Tax during initial construction. Following the completion of Phase I in 2017, City costs to serve the project begin to increase substantially and net revenues decline thereafter. 2029 is the first year of full occupancy of the project and 2042 and 4043 reflect the 32 and 33 year time horizons if the project begins in 2011. Although Stanford has indicated that the two year delay in beginning the project will be made up by 2029, the change in cumulative net revenue between 2042 and 2043 is indicative of the fact that the annual negative impact of the project will have an effect on City finances for every year it remains unmitigated. The life of the project is projected to be 51 years, or 2062. At that point, the project would have created a cumulative deficit for the City of $8.46 million in constant dollar terms. The detailed year by year figures are shown in Appendix A.

**TABLE 1**
**SUMC FISCAL ANALYSIS SUMMARY**
**(CONSTANT 2008 DOLLARS)**

| | 2011 | 2017 | 2029 | 2042 | 2043 | 2062 |
|---|---|---|---|---|---|---|
| Revenues | $1,038,922 | $1,515,631 | $634,245 | $634,245 | $634,245 | $634,245 |
| Expenditures | $0 | $822,764 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 |
| Annual Net Revenue/(Cost) | $1,038,922 | $692,867 | ($374,754) | ($374,754) | ($374,754) | ($374,754) |
| Cumulative Net Revenue/(Cost) | $1,038,922 | $6,981,565 | $3,907,786 | ($964,014) | ($1,338,768) | ($8,459,090) |

As an institutional land use, it is not surprising that SUMC would generate a negative fiscal impact on the City. Such land uses, which are typically exempt from most property taxes and do not generate appreciable sales taxes, are usually not fiscal winners for local government. The background fiscal analysis that was prepared for the Palo Alto Comprehensive Plan Update estimated that institutional uses throughout the City, including schools and other non-profit organizations, cost the City $1.575 million per year more in service costs than they generate in revenue.[1] Most cities see this kind of result from institutional uses. The fact that CBRE's analysis shows a positive fiscal effect from the proposed project is contradictory to the available evidence.

It is important to emphasize that the major difference between the ADE and CBRE studies is the City services cost analysis. CBRE has maintained that there is little effect on City administrative departments as the demand for direct services such as police and fire protection increases. However, this is not borne out by historical budget data for Palo Alto. City General Fund expenditures (excluding utilities and other enterprise funds) increased 39 percent between 1998-99 and 2008-09. However, management and support expenditures increased by 50 percent during the same time period. While such expenditures were 14.4 percent of General Fund expenditures in 1998-99, they were 15.5 percent in 2008-09.[2] We are projecting a similar percentage of costs related to the SUMC project. Palo Alto is a full service City and consequently is responsible for administrative and management functions across a wide range of services. The Administrative Services Department, in particular, centralizes many financial management and administrative functions that in other cities may be located within the line departments. Thus it is critical that the ongoing escalation of workload within this department, as well as other general government departments of the City, be recognized in analyzing the fiscal impacts of major development projects.

Regarding the costs for line departments such as police and fire, these costs reflect per capita service ratios for all similar projects in the City. The activities of project employees as well as patients coming to and from the SUMC facilities will generate service demands for emergency responses as well as use of City services such as libraries and cultural and recreational programs. In this sense, the SUMC project is no different than other major employers throughout the City.

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[1] Applied Development Economics, *Fiscal Background Report, City of Palo Alto*, July 29, 2009.

[2] California State Controller, *Cities Annual Reports*, for Fiscal Years 1998-99 and 2008-09, for the City of Palo Alto.

Moreover, the City cost estimates do not include any services that may be associated with the substantial construction workforce that will be engaged at the project site for many years. CBRE projects more than 800 Full Time Equivalent (FTE) construction workers in Phase 1 and more than 100 FTE in Phase 2. CBRE projects sales tax revenues from incidental expenditures by this workforce, which ADE has disputed, but no effort has been made to project City costs for emergency services, traffic enforcement or other City services during the construction period.

**Cost/Revenue Inflation**

I have also incorporated the analysis of revenue and cost inflation over time in the projections, per direction received from the City Council on January 31, 2011. There are several components of the revenues and costs that may escalate at different rates, so I have addressed each element separately. The various rates discussed below have all been updated to the 2000 to 2010 period. The Use Tax calculations are based on construction costs for the project and occur between 2011 and 2025 in the analysis. I have used the Engineering News Record Building Cost Index to inflate these costs year over year during the construction period. The index averaged 3.3 percent increase per year between 2000 and 2010. For Use Tax on SUMC direct purchases, which essentially is for equipment purchased from out of state, we have used the US CPI, at 2.4 percent.

The Property Tax is projected to escalate at the maximum rate of 2 percent per year assuming no sales of property in the project during the analysis

**TABLE 2**
**INFLATION FACTORS**

| | |
|---|---|
| ENR (Building) | 3.3% |
| U.S. CPI | 2.4% |
| Property Tax | 2.0% |
| City Labor Costs (63% of Total) | 4.5% |
| SF Region CPI | 2.4% |

In the current Long Range Financial Forecast, the City is projecting a 4.5 percent annual inflation in salaries and benefits. Based on recent budget data, salaries and benefits constitute about 63 percent of total City General Fund costs. Therefore, we have inflated this proportion of City service costs by 4.5 percent per year and the remainder at the San Francisco Consumer Price Index (CPI), which has been 2.4 percent between 2000 and 2010, similar to the US rate. In addition, other revenues besides the Use Tax and the Property Tax have been escalated at the CPI rate. The results of this analysis are summarized in Table 3 below.

The annual deficit, as shown for 2029, increases from $374,750 in the prior analysis to about $1.1 million per year. This represents the stabilized build out of the project. In the year 2042,

this deficit increases to $2.2 million per year and the accumulated deficit would be about $21.4 million (compared to $964,000 without inflation). Given the uncertainties in the rate of inflation, it is difficult to project inflationary effects over longer periods. For this reason, the City limits its Long Range Financial Forecast to ten years.

**TABLE 3**
**SUMC FISCAL ANALYSIS SUMMARY WITH INFLATION**

| | 2011 | 2017 | 2029 | 2042 |
|---|---|---|---|---|
| Revenues | $1,144,201 | $1,986,394 | $1,110,455 | $1,498,058 |
| Expenditures | $0 | $1,147,107 | $2,217,563 | $3,682,301 |
| Annual Net Revenue/(Cost) | $1,144,201 | $839,286 | ($1,107,108) | ($2,184,243) |
| Cumulative Net Revenue/(Cost) | $0 | $7,259,731 | ($210,485) | ($21,428,729) |

However, as a result of City revenues not keeping pace with ongoing operating costs, the City has currently accumulated a backlog of unfunded infrastructure expenditures totaling $500 million. The City has been forced to defer long term maintenance and capital replacement costs that continue to accumulate. Given these circumstances, it is essential that projects with known fiscal deficits, such as the SUMC expansion, mitigate those fiscal impacts.

In its discussion with Stanford officials, the City has requested that the University guarantee the major revenues projected to accrue from the SUMC project. These include the Use Tax from construction of the project, Use Tax from ongoing equipment purchases and sales tax from purchases of materials by SUMC and the other entities comprising the project. These three revenues would total about $12.3 million over 30 years, which is about 53 percent of the total revenues projected to be generated by the project in constant dollar terms. These revenues are the subject of a proposed guarantee because they are most within Stanford's control, resulting from direct expenditures by SUMC or by the University's construction contractors. However, even with Stanford's guarantee of these revenues, if other revenues fall short, the City is still at risk to experience fiscal deficits from the project. With the significant potential of inflation to erode the value of these revenues in relation to City costs, it is also essential that the guaranteed amounts in future years reflect appropriate inflation rates. The Use Tax proceeds, for example, should be escalated to reflect increases in construction costs as measured by the ENR index presented in Table 2 above. Similarly, sales tax revenue guarantees should reflect CPI increases to be effective meeting City costs.

The City's main concern is to ensure that its costs for services related to the expanded SUMC facilities are covered through revenues either guaranteed by Stanford or obtained through normal taxing mechanisms. Given the current uncertainty about the ultimate project size and phasing, as well as future needs for City services, the City and Stanford should consider including a provision for periodic monitoring of City costs and revenues related to the project, with the opportunity to adjust the fiscal mitigation amounts if needed to reflect actual experience with revenues and costs in the future.

**APPENDIX A**
**ANNUAL COST/REVENUE ANALYSIS OF SUMC PROJECT**

| **Revenue/Cost Categories** | | | | **Years** | | | |
|---|---|---|---|---|---|---|---|
| General Fund Revenues | **2011** | **2012** | **2013** | **2014** | **2015** | **2016** | **2017** |
| Sales Tax | | | | | | | |
| SUMC Direct Purchasing | $0 | $0 | $0 | $0 | $0 | $0 | $18,522 |
| SUMC Facilities On-site Sales | $0 | $0 | $0 | $0 | $0 | $0 | $125,938 |
| SUMC Employee Spending | $0 | $0 | $0 | $0 | $0 | $0 | $47,880 |
| SUMC Overnight Visitor Spending | $0 | $0 | $0 | $0 | $0 | $0 | $243 |
| Construction Related Purchasing | $1,036,857 | $1,036,857 | $1,036,857 | $1,036,857 | $1,036,857 | $1,036,857 | $1,036,857 |
| Construction Worker Spending | $2,065 | $2,065 | $2,065 | $2,065 | $2,065 | $2,065 | $2,065 |
| Property Tax | | | | | | | |
| Demolition Reduction | $0 | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) |
| 211 Quarry Rd. | $0 | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 |
| New Hoover Pavilion | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Transient Occupancy tax | $0 | $0 | $0 | $0 | $0 | $0 | $4,977 |
| Utility Users Tax | $0 | $0 | $0 | $0 | $0 | $0 | $241,832 |
| Other Taxes and Fines | | | | | | | |
| Motor Vehicle In-Lieu Fees | $0 | $2,165 | $2,165 | $2,165 | $2,165 | $2,165 | $2,165 |
| Fines and Penalties | $0 | $0 | $0 | $0 | $0 | $0 | $26,283 |
| Total General Fund Revenues | $1,038,922 | $1,049,955 | $1,049,955 | $1,049,955 | $1,049,955 | $1,049,955 | $1,515,631 |
| General Fund Expenditures | | | | | | | |
| City Attorney | $0 | $0 | $0 | $0 | $0 | $0 | $21,594 |
| City Auditor | $0 | $0 | $0 | $0 | $0 | $0 | $5,998 |
| City Clerk | $0 | $0 | $0 | $0 | $0 | $0 | $8,398 |
| City Manager | $0 | $0 | $0 | $0 | $0 | $0 | $13,196 |
| Administrative Services | $0 | $0 | $0 | $0 | $0 | $0 | $55,784 |
| Human Resources | $0 | $0 | $0 | $0 | $0 | $0 | $17,995 |
| Community Services | $0 | $0 | $0 | $0 | $0 | $0 | $50,096 |
| Fire | $0 | $0 | $0 | $0 | $0 | $0 | $151,904 |
| Library | $0 | $0 | $0 | $0 | $0 | $0 | $15,492 |
| Planning and Community Environment | $0 | $0 | $0 | $0 | $0 | $0 | $47,261 |
| Police | $0 | $0 | $0 | $0 | $0 | $0 | $262,279 |
| Public Works | $0 | $0 | $0 | $0 | $0 | $0 | $119,800 |
| Non-Departmental | $0 | $0 | $0 | $0 | $0 | $0 | $52,968 |
| Total General Fund Expenditures | $0 | $0 | $0 | $0 | $0 | $0 | $822,764 |
| General Fund Net Fiscal Impact | $1,038,922 | $1,049,955 | $1,049,955 | $1,049,955 | $1,049,955 | $1,049,955 | $692,867 |
| Cumulative General Fund Impact | $1,038,922 | $2,088,877 | $3,138,833 | $4,188,788 | $5,238,743 | $6,288,698 | $6,981,565 |
| **Inflation Analysis** | **2011** | **2012** | **2013** | **2014** | **2015** | **2016** | **2017** |
| Construction revenues | $1,141,986 | $1,179,346 | $1,217,929 | $1,257,774 | $1,298,922 | $1,341,417 | $1,385,302 |
| Direct Purchase Use Tax | $0 | $0 | $0 | $0 | $0 | $0 | $22,902 |
| Property tax/Motor Veh. In-Lieu | $0 | $11,943 | $12,181 | $12,425 | $12,674 | $12,927 | $13,186 |
| Other revenues | $2,215 | $12,002 | $12,285 | $12,575 | $12,871 | $13,175 | $565,005 |
| Total revenues | $1,144,201 | $1,203,291 | $1,242,395 | $1,282,773 | $1,324,467 | $1,367,519 | $1,986,394 |
| Costs | $0 | $0 | $0 | $0 | $0 | $0 | $1,147,107 |
| Annual Net | $1,144,201 | $1,203,291 | $1,242,395 | $1,282,773 | $1,324,467 | $1,367,519 | $839,286 |
| Cumulative Net | | $1,203,291 | $2,445,686 | $3,728,459 | $5,052,926 | $6,420,445 | $7,259,731 |

Source: ADE, Inc.

**APPENDIX A**
**ANNUAL COST/REVENUE ANALYSIS OF SUMC PROJECT**

| **Revenue/Cost Categories** | | | **Years** | | | |
|---|---|---|---|---|---|---|
| General Fund Revenues | **2018** | **2019** | **2020** | **2021** | **2022** | **2023** |
| Sales Tax | | | | | | |
| SUMC Direct Purchasing | $18,522 | $18,522 | $18,522 | $18,522 | $18,522 | $18,522 |
| SUMC Facilities On-site Sales | $125,938 | $125,938 | $125,938 | $125,938 | $125,938 | $125,938 |
| SUMC Employee Spending | $47,880 | $47,880 | $50,498 | $50,498 | $50,498 | $50,498 |
| SUMC Overnight Visitor Spending | $243 | $243 | $256 | $256 | $256 | $256 |
| Construction Related Purchasing | $111,302 | $111,302 | $111,302 | $111,302 | $111,302 | $111,302 |
| Construction Worker Spending | $231 | $231 | $231 | $231 | $231 | $231 |
| Property Tax | | | | | | |
| Demolition Reduction | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) |
| 211 Quarry Rd. | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 |
| New Hoover Pavilion | $13,919 | $27,840 | $41,759 | $41,759 | $41,759 | $41,759 |
| Transient Occupancy tax | $4,977 | $4,977 | $5,249 | $5,249 | $5,249 | $5,249 |
| Utility Users Tax | $241,832 | $241,832 | $255,055 | $255,055 | $255,055 | $255,055 |
| Other Taxes and Fines | | | | | | |
| Motor Vehicle In-Lieu Fees | $5,562 | $8,960 | $12,358 | $12,358 | $12,358 | $12,358 |
| Fines and Penalties | $26,283 | $26,283 | $27,720 | $27,720 | $27,720 | $27,720 |
| Total General Fund Revenues | $605,559 | $622,877 | $657,757 | $657,757 | $657,757 | $657,757 |
| General Fund Expenditures | | | | | | |
| City Attorney | $21,594 | $21,594 | $22,774 | $22,774 | $22,774 | $22,774 |
| City Auditor | $5,998 | $5,998 | $6,326 | $6,326 | $6,326 | $6,326 |
| City Clerk | $8,398 | $8,398 | $8,857 | $8,857 | $8,857 | $8,857 |
| City Manager | $13,196 | $13,196 | $13,918 | $13,918 | $13,918 | $13,918 |
| Administrative Services | $55,784 | $55,784 | $58,834 | $58,834 | $58,834 | $58,834 |
| Human Resources | $17,995 | $17,995 | $18,979 | $18,979 | $18,979 | $18,979 |
| Community Services | $50,096 | $50,096 | $52,835 | $52,835 | $52,835 | $52,835 |
| Fire | $151,904 | $151,904 | $160,209 | $160,209 | $160,209 | $160,209 |
| Library | $15,492 | $15,492 | $16,339 | $16,339 | $16,339 | $16,339 |
| Planning and Community Environment | $47,261 | $47,261 | $49,845 | $49,845 | $49,845 | $49,845 |
| Police | $262,279 | $262,279 | $276,619 | $276,619 | $276,619 | $276,619 |
| Public Works | $119,800 | $119,800 | $126,350 | $126,350 | $126,350 | $126,350 |
| Non-Departmental | $52,968 | $52,968 | $55,864 | $55,864 | $55,864 | $55,864 |
| Total General Fund Expenditures | $822,764 | $822,764 | $867,748 | $867,748 | $867,748 | $867,748 |
| General Fund Net Fiscal Impact | ($217,205) | ($199,887) | ($209,992) | ($209,992) | ($209,992) | ($209,992) |
| Cumulative General Fund Impact | $6,764,360 | $6,564,473 | $6,354,481 | $6,144,490 | $5,934,498 | $5,724,506 |
| **Inflation Analysis** | **2018** | **2019** | **2020** | **2021** | **2022** | **2023** |
| Construction revenues | $153,571 | $158,595 | $163,784 | $169,142 | $174,676 | $180,390 |
| Direct Purchase Use Tax | $23,448 | $24,008 | $24,581 | $25,167 | $25,768 | $26,383 |
| Property tax/Motor Veh. In-Lieu | $34,559 | $56,783 | $79,881 | $81,479 | $83,108 | $84,770 |
| Other revenues | $593,586 | $625,573 | $681,967 | $698,049 | $714,510 | $731,360 |
| Total revenues | $805,164 | $864,959 | $950,212 | $973,837 | $998,062 | $1,022,903 |
| Costs | $1,190,840 | $1,236,357 | $1,353,924 | $1,405,941 | $1,460,092 | $1,516,469 |
| Annual Net | ($385,675) | ($371,398) | ($403,712) | ($432,104) | ($462,030) | ($493,566) |
| Cumulative Net | $6,874,056 | $6,502,657 | $6,098,946 | $5,666,842 | $5,204,812 | $4,711,247 |

Source: ADE, Inc.

**APPENDIX A**
**ANNUAL COST/REVENUE ANALYSIS OF SUMC PROJECT**

| **Revenue/Cost Categories** | **Years** | | | | | |
|---|---|---|---|---|---|---|
| General Fund Revenues | **2024** | **2025** | **2026** | **2027** | **2028** | **2029** |
| Sales Tax | | | | | | |
| SUMC Direct Purchasing | $18,522 | $18,522 | $35,999 | $38,337 | $40,675 | $43,013 |
| SUMC Facilities On-site Sales | $125,938 | $125,938 | $128,034 | $130,131 | $132,227 | $134,323 |
| SUMC Employee Spending | $50,498 | $50,498 | $52,566 | $54,608 | $56,676 | $58,718 |
| SUMC Overnight Visitor Spending | $256 | $256 | $267 | $277 | $288 | $298 |
| Construction Related Purchasing | $111,302 | $111,302 | $0 | $0 | $0 | $0 |
| Construction Worker Spending | $231 | $231 | $0 | $0 | $0 | $0 |
| Property Tax | | | | | | |
| Demolition Reduction | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) |
| 211 Quarry Rd. | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 |
| New Hoover Pavilion | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 |
| Transient Occupancy tax | $5,249 | $5,249 | $5,464 | $5,677 | $5,892 | $6,104 |
| Utility Users Tax | $255,055 | $255,055 | $265,500 | $275,813 | $286,259 | $296,572 |
| Other Taxes and Fines | | | | | | |
| Motor Vehicle In-Lieu Fees | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 |
| Fines and Penalties | $27,720 | $27,720 | $28,855 | $29,976 | $31,111 | $32,232 |
| Total General Fund Revenues | $657,757 | $657,757 | $579,671 | $597,805 | $616,113 | $634,245 |
| General Fund Expenditures | | | | | | |
| City Attorney | $22,774 | $22,774 | $23,707 | $24,628 | $25,561 | $26,482 |
| City Auditor | $6,326 | $6,326 | $6,585 | $6,841 | $7,100 | $7,356 |
| City Clerk | $8,857 | $8,857 | $9,219 | $9,578 | $9,940 | $10,298 |
| City Manager | $13,918 | $13,918 | $14,488 | $15,050 | $15,620 | $16,183 |
| Administrative Services | $58,834 | $58,834 | $61,243 | $63,622 | $66,032 | $68,411 |
| Human Resources | $18,979 | $18,979 | $19,756 | $20,523 | $21,301 | $22,068 |
| Community Services | $52,835 | $52,835 | $54,999 | $57,136 | $59,299 | $61,436 |
| Fire | $160,209 | $160,209 | $166,771 | $173,249 | $179,810 | $186,288 |
| Library | $16,339 | $16,339 | $17,008 | $17,668 | $18,338 | $18,998 |
| Planning and Community Environment | $49,845 | $49,845 | $51,887 | $53,902 | $55,944 | $57,959 |
| Police | $276,619 | $276,619 | $287,947 | $299,132 | $310,461 | $321,646 |
| Public Works | $126,350 | $126,350 | $131,524 | $136,633 | $141,808 | $146,917 |
| Non-Departmental | $55,864 | $55,864 | $58,152 | $60,411 | $62,698 | $64,957 |
| Total General Fund Expenditures | $867,748 | $867,748 | $903,286 | $938,374 | $973,911 | $1,008,999 |
| General Fund Net Fiscal Impact | ($209,992) | ($209,992) | ($323,615) | ($340,569) | ($357,799) | ($374,754) |
| Cumulative General Fund Impact | $5,514,514 | $5,304,523 | $4,980,907 | $4,640,338 | $4,282,539 | $3,907,786 |
| **Inflation Analysis** | **2024** | **2025** | **2026** | **2027** | **2028** | **2029** |
| Construction revenues | $186,292 | $192,386 | $0 | $0 | $0 | $0 |
| Direct Purchase Use Tax | $186,292 | $192,386 | $0 | $0 | $0 | $0 |
| Property tax/Motor Veh. In-Lieu | $27,013 | $27,657 | $55,037 | $60,010 | $65,189 | $70,581 |
| Other revenues | $86,466 | $88,195 | $89,959 | $91,758 | $93,593 | $95,465 |
| Total revenues | $748,607 | $766,261 | $808,275 | $851,932 | $897,476 | $944,409 |
| Costs | $1,048,377 | $1,074,499 | $953,270 | $1,003,700 | $1,056,259 | $1,110,455 |
| Annual Net | $1,575,168 | $1,636,287 | $1,769,550 | $1,909,960 | $2,059,763 | $2,217,563 |
| Cumulative Net | ($526,791) | ($561,788) | ($816,280) | ($906,261) | ($1,003,504) | ($1,107,108) |

Source: ADE, Inc.

**APPENDIX A**
**ANNUAL COST/REVENUE ANALYSIS OF SUMC PROJECT**

| **Revenue/Cost Categories** | **Years** | | | | | |
|---|---|---|---|---|---|---|
| General Fund Revenues | **2030** | **2031** | **2032** | **2033** | **2034** | **2035** |
| Sales Tax | | | | | | |
| SUMC Direct Purchasing | $43,013 | $43,013 | $43,013 | $43,013 | $43,013 | $43,013 |
| SUMC Facilities On-site Sales | $134,323 | $134,323 | $134,323 | $134,323 | $134,323 | $134,323 |
| SUMC Employee Spending | $58,718 | $58,718 | $58,718 | $58,718 | $58,718 | $58,718 |
| SUMC Overnight Visitor Spending | $298 | $298 | $298 | $298 | $298 | $298 |
| Construction Related Purchasing | $0 | $0 | $0 | $0 | $0 | $0 |
| Construction Worker Spending | $0 | $0 | $0 | $0 | $0 | $0 |
| Property Tax | | | | | | |
| Demolition Reduction | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) |
| 211 Quarry Rd. | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 |
| New Hoover Pavilion | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 |
| Transient Occupancy tax | $6,104 | $6,104 | $6,104 | $6,104 | $6,104 | $6,104 |
| Utility Users Tax | $296,572 | $296,572 | $296,572 | $296,572 | $296,572 | $296,572 |
| Other Taxes and Fines | | | | | | |
| Motor Vehicle In-Lieu Fees | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 |
| Fines and Penalties | $32,232 | $32,232 | $32,232 | $32,232 | $32,232 | $32,232 |
| Total General Fund Revenues | $634,245 | $634,245 | $634,245 | $634,245 | $634,245 | $634,245 |
| General Fund Expenditures | | | | | | |
| City Attorney | $26,482 | $26,482 | $26,482 | $26,482 | $26,482 | $26,482 |
| City Auditor | $7,356 | $7,356 | $7,356 | $7,356 | $7,356 | $7,356 |
| City Clerk | $10,298 | $10,298 | $10,298 | $10,298 | $10,298 | $10,298 |
| City Manager | $16,183 | $16,183 | $16,183 | $16,183 | $16,183 | $16,183 |
| Administrative Services | $68,411 | $68,411 | $68,411 | $68,411 | $68,411 | $68,411 |
| Human Resources | $22,068 | $22,068 | $22,068 | $22,068 | $22,068 | $22,068 |
| Community Services | $61,436 | $61,436 | $61,436 | $61,436 | $61,436 | $61,436 |
| Fire | $186,288 | $186,288 | $186,288 | $186,288 | $186,288 | $186,288 |
| Library | $18,998 | $18,998 | $18,998 | $18,998 | $18,998 | $18,998 |
| Planning and Community Environment | $57,959 | $57,959 | $57,959 | $57,959 | $57,959 | $57,959 |
| Police | $321,646 | $321,646 | $321,646 | $321,646 | $321,646 | $321,646 |
| Public Works | $146,917 | $146,917 | $146,917 | $146,917 | $146,917 | $146,917 |
| Non-Departmental | $64,957 | $64,957 | $64,957 | $64,957 | $64,957 | $64,957 |
| Total General Fund Expenditures | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 |
| General Fund Net Fiscal Impact | ($374,754) | ($374,754) | ($374,754) | ($374,754) | ($374,754) | ($374,754) |
| Cumulative General Fund Impact | $3,533,032 | $3,158,278 | $2,783,524 | $2,408,770 | $2,034,017 | $1,659,263 |
| **Inflation Analysis** | **2030** | **2031** | **2032** | **2033** | **2034** | **2035** |
| Construction revenues | $0 | $0 | $0 | $0 | $0 | $0 |
| Direct Purchase Use Tax | $72,266 | $73,990 | $75,756 | $77,564 | $79,415 | $81,310 |
| Property tax/Motor Veh. In-Lieu | $97,374 | $99,322 | $101,308 | $103,334 | $105,401 | $107,509 |
| Other revenues | $966,680 | $989,477 | $1,012,810 | $1,036,695 | $1,061,142 | $1,086,166 |
| Total revenues | $1,136,320 | $1,162,788 | $1,189,874 | $1,217,593 | $1,245,958 | $1,274,985 |
| Costs | $2,304,630 | $2,395,322 | $2,489,796 | $2,588,214 | $2,690,748 | $2,797,575 |
| Annual Net | ($1,168,310) | ($1,232,534) | ($1,299,921) | ($1,370,621) | ($1,444,790) | ($1,522,590) |
| Cumulative Net | ($1,378,796) | ($2,611,330) | ($3,911,251) | ($5,281,872) | ($6,726,662) | ($8,249,253) |

Source: ADE, Inc.

**APPENDIX A**
**ANNUAL COST/REVENUE ANALYSIS OF SUMC PROJECT**

| **Revenue/Cost Categories** | | | | **Years** | | | |
|---|---|---|---|---|---|---|---|
| General Fund Revenues | **2036** | **2037** | **2038** | **2039** | **2040** | **2041** | **2042** |
| Sales Tax | | | | | | | |
| SUMC Direct Purchasing | $43,013 | $43,013 | $43,013 | $43,013 | $43,013 | $43,013 | $43,013 |
| SUMC Facilities On-site Sales | $134,323 | $134,323 | $134,323 | $134,323 | $134,323 | $134,323 | $134,323 |
| SUMC Employee Spending | $58,718 | $58,718 | $58,718 | $58,718 | $58,718 | $58,718 | $58,718 |
| SUMC Overnight Visitor Spending | $298 | $298 | $298 | $298 | $298 | $298 | $298 |
| Construction Related Purchasing | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Construction Worker Spending | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Property Tax | | | | | | | |
| Demolition Reduction | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) |
| 211 Quarry Rd. | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 |
| New Hoover Pavilion | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 |
| Transient Occupancy tax | $6,104 | $6,104 | $6,104 | $6,104 | $6,104 | $6,104 | $6,104 |
| Utility Users Tax | $296,572 | $296,572 | $296,572 | $296,572 | $296,572 | $296,572 | $296,572 |
| Other Taxes and Fines | | | | | | | |
| Motor Vehicle In-Lieu Fees | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 |
| Fines and Penalties | $32,232 | $32,232 | $32,232 | $32,232 | $32,232 | $32,232 | $32,232 |
| Total General Fund Revenues | $634,245 | $634,245 | $634,245 | $634,245 | $634,245 | $634,245 | $634,245 |
| General Fund Expenditures | | | | | | | |
| City Attorney | $26,482 | $26,482 | $26,482 | $26,482 | $26,482 | $26,482 | $26,482 |
| City Auditor | $7,356 | $7,356 | $7,356 | $7,356 | $7,356 | $7,356 | $7,356 |
| City Clerk | $10,298 | $10,298 | $10,298 | $10,298 | $10,298 | $10,298 | $10,298 |
| City Manager | $16,183 | $16,183 | $16,183 | $16,183 | $16,183 | $16,183 | $16,183 |
| Administrative Services | $68,411 | $68,411 | $68,411 | $68,411 | $68,411 | $68,411 | $68,411 |
| Human Resources | $22,068 | $22,068 | $22,068 | $22,068 | $22,068 | $22,068 | $22,068 |
| Community Services | $61,436 | $61,436 | $61,436 | $61,436 | $61,436 | $61,436 | $61,436 |
| Fire | $186,288 | $186,288 | $186,288 | $186,288 | $186,288 | $186,288 | $186,288 |
| Library | $18,998 | $18,998 | $18,998 | $18,998 | $18,998 | $18,998 | $18,998 |
| Planning and Community Environment | $57,959 | $57,959 | $57,959 | $57,959 | $57,959 | $57,959 | $57,959 |
| Police | $321,646 | $321,646 | $321,646 | $321,646 | $321,646 | $321,646 | $321,646 |
| Public Works | $146,917 | $146,917 | $146,917 | $146,917 | $146,917 | $146,917 | $146,917 |
| Non-Departmental | $64,957 | $64,957 | $64,957 | $64,957 | $64,957 | $64,957 | $64,957 |
| Total General Fund Expenditures | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 |
| General Fund Net Fiscal Impact | ($374,754) | ($374,754) | ($374,754) | ($374,754) | ($374,754) | ($374,754) | ($374,754) |
| Cumulative General Fund Impact | $1,284,509 | $909,755 | $535,001 | $160,248 | ($214,506) | ($589,260) | ($964,014) |
| **Inflation Analysis** | **2036** | **2037** | **2038** | **2039** | **2040** | **2041** | **2042** |
| Construction revenues | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Direct Purchase Use Tax | $83,250 | $85,237 | $87,271 | $89,354 | $91,486 | $93,669 | $95,905 |
| Property tax/Motor Veh. In-Lieu | $109,659 | $111,853 | $114,090 | $116,371 | $118,699 | $121,073 | $123,494 |
| Other revenues | $1,111,780 | $1,137,998 | $1,164,834 | $1,192,303 | $1,220,420 | $1,249,200 | $1,278,659 |
| Total revenues | $1,304,689 | $1,335,087 | $1,366,195 | $1,398,028 | $1,430,605 | $1,463,942 | $1,498,058 |
| Costs | $2,908,882 | $3,024,863 | $3,145,721 | $3,271,668 | $3,402,924 | $3,539,721 | $3,682,301 |
| Annual Net | ($1,604,193) | ($1,689,776) | ($1,779,527) | ($1,873,640) | ($1,972,319) | ($2,075,779) | ($2,184,243) |
| Cumulative Net | ($9,853,446) | ($11,543,222) | ($13,322,748) | ($15,196,388) | ($17,168,707) | ($19,244,486) | ($21,428,729) |

Source: ADE, Inc.

**APPENDIX A**
**ANNUAL COST/REVENUE ANALYSIS OF SUMC PROJECT**

| **Revenue/Cost Categories** | | | | **Years** | | | |
|---|---|---|---|---|---|---|---|
| General Fund Revenues | **2043** | **2044** | **2045** | **2046** | **2047** | **2048** | **2049** |
| Sales Tax | | | | | | | |
| SUMC Direct Purchasing | $43,013 | $43,013 | $43,013 | $43,013 | $43,013 | $43,013 | $43,013 |
| SUMC Facilities On-site Sales | $134,323 | $134,323 | $134,323 | $134,323 | $134,323 | $134,323 | $134,323 |
| SUMC Employee Spending | $58,718 | $58,718 | $58,718 | $58,718 | $58,718 | $58,718 | $58,718 |
| SUMC Overnight Visitor Spending | $298 | $298 | $298 | $298 | $298 | $298 | $298 |
| Construction Related Purchasing | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Construction Worker Spending | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Property Tax | | | | | | | |
| Demolition Reduction | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) |
| 211 Quarry Rd. | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 |
| New Hoover Pavilion | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 |
| Transient Occupancy tax | $6,104 | $6,104 | $6,104 | $6,104 | $6,104 | $6,104 | $6,104 |
| Utility Users Tax | $296,572 | $296,572 | $296,572 | $296,572 | $296,572 | $296,572 | $296,572 |
| Other Taxes and Fines | | | | | | | |
| Motor Vehicle In-Lieu Fees | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 |
| Fines and Penalties | $32,232 | $32,232 | $32,232 | $32,232 | $32,232 | $32,232 | $32,232 |
| Total General Fund Revenues | $634,245 | $634,245 | $634,245 | $634,245 | $634,245 | $634,245 | $634,245 |
| General Fund Expenditures | | | | | | | |
| City Attorney | $26,482 | $26,482 | $26,482 | $26,482 | $26,482 | $26,482 | $26,482 |
| City Auditor | $7,356 | $7,356 | $7,356 | $7,356 | $7,356 | $7,356 | $7,356 |
| City Clerk | $10,298 | $10,298 | $10,298 | $10,298 | $10,298 | $10,298 | $10,298 |
| City Manager | $16,183 | $16,183 | $16,183 | $16,183 | $16,183 | $16,183 | $16,183 |
| Administrative Services | $68,411 | $68,411 | $68,411 | $68,411 | $68,411 | $68,411 | $68,411 |
| Human Resources | $22,068 | $22,068 | $22,068 | $22,068 | $22,068 | $22,068 | $22,068 |
| Community Services | $61,436 | $61,436 | $61,436 | $61,436 | $61,436 | $61,436 | $61,436 |
| Fire | $186,288 | $186,288 | $186,288 | $186,288 | $186,288 | $186,288 | $186,288 |
| Library | $18,998 | $18,998 | $18,998 | $18,998 | $18,998 | $18,998 | $18,998 |
| Planning and Community Environment | $57,959 | $57,959 | $57,959 | $57,959 | $57,959 | $57,959 | $57,959 |
| Police | $321,646 | $321,646 | $321,646 | $321,646 | $321,646 | $321,646 | $321,646 |
| Public Works | $146,917 | $146,917 | $146,917 | $146,917 | $146,917 | $146,917 | $146,917 |
| Non-Departmental | $64,957 | $64,957 | $64,957 | $64,957 | $64,957 | $64,957 | $64,957 |
| Total General Fund Expenditures | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 |
| General Fund Net Fiscal Impact | ($374,754) | ($374,754) | ($374,754) | ($374,754) | ($374,754) | ($374,754) | ($374,754) |
| Cumulative General Fund Impact | ($1,338,768) | ($1,713,521) | ($2,088,275) | ($2,463,029) | ($2,837,783) | ($3,212,537) | ($3,587,291) |

Source: ADE, Inc.

**APPENDIX A**
**ANNUAL COST/REVENUE ANALYSIS OF SUMC PROJECT**

| **Revenue/Cost Categories** | | | | **Years** | | | |
|---|---|---|---|---|---|---|---|
| General Fund Revenues | **2050** | **2051** | **2052** | **2053** | **2054** | **2055** | **2056** |
| Sales Tax | | | | | | | |
| SUMC Direct Purchasing | $43,013 | $43,013 | $43,013 | $43,013 | $43,013 | $43,013 | $43,013 |
| SUMC Facilities On-site Sales | $134,323 | $134,323 | $134,323 | $134,323 | $134,323 | $134,323 | $134,323 |
| SUMC Employee Spending | $58,718 | $58,718 | $58,718 | $58,718 | $58,718 | $58,718 | $58,718 |
| SUMC Overnight Visitor Spending | $298 | $298 | $298 | $298 | $298 | $298 | $298 |
| Construction Related Purchasing | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Construction Worker Spending | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Property Tax | | | | | | | |
| Demolition Reduction | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) |
| 211 Quarry Rd. | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 |
| New Hoover Pavilion | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 |
| Transient Occupancy tax | $6,104 | $6,104 | $6,104 | $6,104 | $6,104 | $6,104 | $6,104 |
| Utility Users Tax | $296,572 | $296,572 | $296,572 | $296,572 | $296,572 | $296,572 | $296,572 |
| Other Taxes and Fines | | | | | | | |
| Motor Vehicle In-Lieu Fees | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 |
| Fines and Penalties | $32,232 | $32,232 | $32,232 | $32,232 | $32,232 | $32,232 | $32,232 |
| Total General Fund Revenues | $634,245 | $634,245 | $634,245 | $634,245 | $634,245 | $634,245 | $634,245 |
| General Fund Expenditures | | | | | | | |
| City Attorney | $26,482 | $26,482 | $26,482 | $26,482 | $26,482 | $26,482 | $26,482 |
| City Auditor | $7,356 | $7,356 | $7,356 | $7,356 | $7,356 | $7,356 | $7,356 |
| City Clerk | $10,298 | $10,298 | $10,298 | $10,298 | $10,298 | $10,298 | $10,298 |
| City Manager | $16,183 | $16,183 | $16,183 | $16,183 | $16,183 | $16,183 | $16,183 |
| Administrative Services | $68,411 | $68,411 | $68,411 | $68,411 | $68,411 | $68,411 | $68,411 |
| Human Resources | $22,068 | $22,068 | $22,068 | $22,068 | $22,068 | $22,068 | $22,068 |
| Community Services | $61,436 | $61,436 | $61,436 | $61,436 | $61,436 | $61,436 | $61,436 |
| Fire | $186,288 | $186,288 | $186,288 | $186,288 | $186,288 | $186,288 | $186,288 |
| Library | $18,998 | $18,998 | $18,998 | $18,998 | $18,998 | $18,998 | $18,998 |
| Planning and Community Environment | $57,959 | $57,959 | $57,959 | $57,959 | $57,959 | $57,959 | $57,959 |
| Police | $321,646 | $321,646 | $321,646 | $321,646 | $321,646 | $321,646 | $321,646 |
| Public Works | $146,917 | $146,917 | $146,917 | $146,917 | $146,917 | $146,917 | $146,917 |
| Non-Departmental | $64,957 | $64,957 | $64,957 | $64,957 | $64,957 | $64,957 | $64,957 |
| Total General Fund Expenditures | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 |
| General Fund Net Fiscal Impact | ($374,754) | ($374,754) | ($374,754) | ($374,754) | ($374,754) | ($374,754) | ($374,754) |
| Cumulative General Fund Impact | ($3,962,044) | ($4,336,798) | ($4,711,552) | ($5,086,306) | ($5,461,060) | ($5,835,813) | ($6,210,567) |

Source: ADE, Inc.

**APPENDIX A**
**ANNUAL COST/REVENUE ANALYSIS OF SUMC PROJECT**

| Revenue/Cost Categories | Years | | | | | |
|---|---|---|---|---|---|---|
| General Fund Revenues | 2057 | 2058 | 2059 | 2060 | 2061 | 2062 |
| Sales Tax | | | | | | |
| SUMC Direct Purchasing | $43,013 | $43,013 | $43,013 | $43,013 | $43,013 | $43,013 |
| SUMC Facilities On-site Sales | $134,323 | $134,323 | $134,323 | $134,323 | $134,323 | $134,323 |
| SUMC Employee Spending | $58,718 | $58,718 | $58,718 | $58,718 | $58,718 | $58,718 |
| SUMC Overnight Visitor Spending | $298 | $298 | $298 | $298 | $298 | $298 |
| Construction Related Purchasing | $0 | $0 | $0 | $0 | $0 | $0 |
| Construction Worker Spending | $0 | $0 | $0 | $0 | $0 | $0 |
| Property Tax | | | | | | |
| Demolition Reduction | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) | ($12,081) |
| 211 Quarry Rd. | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 | $20,949 |
| New Hoover Pavilion | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 | $41,759 |
| Transient Occupancy tax | $6,104 | $6,104 | $6,104 | $6,104 | $6,104 | $6,104 |
| Utility Users Tax | $296,572 | $296,572 | $296,572 | $296,572 | $296,572 | $296,572 |
| Other Taxes and Fines | | | | | | |
| Motor Vehicle In-Lieu Fees | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 | $12,358 |
| Fines and Penalties | $32,232 | $32,232 | $32,232 | $32,232 | $32,232 | $32,232 |
| Total General Fund Revenues | $634,245 | $634,245 | $634,245 | $634,245 | $634,245 | $634,245 |
| General Fund Expenditures | | | | | | |
| City Attorney | $26,482 | $26,482 | $26,482 | $26,482 | $26,482 | $26,482 |
| City Auditor | $7,356 | $7,356 | $7,356 | $7,356 | $7,356 | $7,356 |
| City Clerk | $10,298 | $10,298 | $10,298 | $10,298 | $10,298 | $10,298 |
| City Manager | $16,183 | $16,183 | $16,183 | $16,183 | $16,183 | $16,183 |
| Administrative Services | $68,411 | $68,411 | $68,411 | $68,411 | $68,411 | $68,411 |
| Human Resources | $22,068 | $22,068 | $22,068 | $22,068 | $22,068 | $22,068 |
| Community Services | $61,436 | $61,436 | $61,436 | $61,436 | $61,436 | $61,436 |
| Fire | $186,288 | $186,288 | $186,288 | $186,288 | $186,288 | $186,288 |
| Library | $18,998 | $18,998 | $18,998 | $18,998 | $18,998 | $18,998 |
| Planning and Community Environment | $57,959 | $57,959 | $57,959 | $57,959 | $57,959 | $57,959 |
| Police | $321,646 | $321,646 | $321,646 | $321,646 | $321,646 | $321,646 |
| Public Works | $146,917 | $146,917 | $146,917 | $146,917 | $146,917 | $146,917 |
| Non-Departmental | $64,957 | $64,957 | $64,957 | $64,957 | $64,957 | $64,957 |
| Total General Fund Expenditures | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 | $1,008,999 |
| General Fund Net Fiscal Impact | ($374,754) | ($374,754) | ($374,754) | ($374,754) | ($374,754) | ($374,754) |
| Cumulative General Fund Impact | ($6,585,321) | ($6,960,075) | ($7,334,829) | ($7,709,582) | ($8,084,336) | ($8,459,090) |

Source: ADE, Inc.

Attachment D

City of Palo Alto White Paper on Stanford University Medical Center Expansion Project Transportation Demand Management (TDM) Mitigation Program
***(Based on Master Response 1 in FEIR)***

***Updated March 2, 2011***

**GO Pass Program**

The Caltrain GO Pass is an employer-sponsored annual pass that offers unlimited rides on Caltrain through all zones, seven days per week for one annual payment per employee. The GO Pass – a small sticker affixed to an employee I.D. badge – can be used at any time of the day that Caltrain is operating. Employees traveling on Caltrain simply present the badge and the GO Pass sticker. The GO Pass is not available for purchase by individuals and does not cover parking at Caltrain stations or travel on other transit systems. It is valid for a calendar year and expires on December 31 each year. Participating employers pay an annual fee to provide the GO Pass to each and every regular, full-time employee (working more than 20 hours per week) regardless of how many will use the transit pass.

The GO Pass program is a contractual program open to companies of any size. Companies currently pay $155 annually (2011) for every regular employee working more than 20 hours per week at the company or a flat fee of $10,850, whichever is higher.

The GO Pass is valid for unlimited rides, including personal trips, on Caltrain during the period for which it is purchased, in any zone, seven days a week. It should be noted that the employee's ability to utilize the GO Pass for personal, non-business related use not only provides an incentive to take cars off the road during non-commute times, but also offers the opportunity for a current non-user to experience the advantages of Caltrain in other situations and become "sold" on its convenience and comfort for regular or commute use. Although anecdotal, Stanford University's experience is that this aspect helps influence changing commute choice to Caltrain.

Caltrain allows colleges and universities to participate in the same way as companies. Schools can purchase the GO Pass for staff or faculty or both and for students, but the benefit must be for everyone in the category for which the school decides to provide it – all eligible faculty or staff, for example, or all undergraduate or graduate students. Stanford does not provide GO Passes for students as most students are housed on campus. Parking & Transportation Services is the organization that manages the GO

Pass for Stanford University employees. Stanford University currently purchases GO Passes for a large portion of its employees. The subgroup of GO Pass eligible employees is defined as those who work more than 20 hours a week, and those who do not live on campus, but excludes students, SLAC employees and Hospital employees.

The SUMC Project Draft EIR evaluates project-related traffic effects based upon current trip generation data at the SUMC, without assuming any changes to the Hospitals' transportation demand management (TDM) programs. This produces an analysis of SUMC Project impacts before mitigation. The Draft EIR then evaluates the reduction in traffic effects that would be achieved by the implementation of a Mitigation Measure to enhance the Hospitals' existing TDM program by providing a Caltrain GO Pass to all eligible SUMC employees.

In addition, as part of the enhanced TDM mitigation, the Hospitals would be required to use all reasonable efforts to lease parking spaces in the Ardenwood park-and-ride lot (or at an equivalent lot) at the east end of the Dumbarton Bridge to allow East Bay employees to park at the park-and-ride lot and board the U-Line to reach the Hospitals. The SUMC Project sponsors would also use all reasonable efforts to assure that the controlling agency provides sufficient bus service on the U-Line (i.e., no standees). Therefore, while the GO Pass would not be of use to residents not served by Caltrain, alternate modes of transportation would be available to some of those employees.

As described below, the trip reduction anticipated to be achieved by offering Caltrain GO Passes to all eligible Hospital employees is based on the Caltrain usage rates that Stanford University achieved in 2006 by offering Caltrain GO Passes to University employees.

Stanford University currently has a total employment of approximately 15,300 and purchases about 10,100 GO Passes annually. In a five-year period, the University achieved a substantial decrease in the number of drive-alone commuters from 64 percent in 2004 to 50.3 percent in 2008. Much of this decrease is attributable to the Caltrain GO Pass program. The Caltrain GO Pass was initially offered in the fall of 2002 to Stanford employees. Between 2002 and 2004, Stanford University Caltrain ridership tripled from 4 percent to 12 percent of total commuters. In 2005, Caltrain opened its "Baby Bullet" service and expanded its express train service. By 2006, Stanford University commuters' use of Caltrain to campus had quadrupled to about 16 percent. In 2007, 18 percent of Stanford University employees used Caltrain, and in 2008, the ridership increased to 20 percent.

By contrast, the Hospitals do not offer GO Passes to their employees. While the level of drive-alone commuters that are Hospital employees dropped recently by approximately 4.6 percent (from 78.2 percent in 2007 to 73.6 percent in 2008), the shift from a drive-alone commute mode by Hospital employees has come due to increases in carpooling and express bus use. There has been little change in Caltrain use by Hospital employees. Accordingly, it is reasonable to expect that offering Caltrain GO Passes to Hospital employees would substantially increase transit use and reduce drive-alone rates. In 2006, the annual employee transportation survey for the Hospitals determined that the existing TDM program resulted in the following employee mode splits:

| | |
|---|---|
| Single Occupant Modes | |
| Drive Alone | 77.1% |
| Alternative Transportation Modes | |
| Carpool | 9.8% |
| Caltrain | 3.6% |
| Bus | 4.7% |
| Bicycle | 2.5% |
| Marguerite | 0.6% |
| Walk | 0.6% |
| Vanpool | 0.1% |
| Other | 1.0% |
| Total: | 22.9% |

In addition to reviewing the timing of Hospital shifts, the City's traffic consultants also reviewed data regarding the location where Hospital employees reside in comparison to the location where Stanford University employees reside. A higher percentage (65 percent) of Hospital employees than of Stanford University employees (52 percent) live in cities that are located near the Caltrain tracks (excluding Palo Alto and Menlo Park which are considered too proximate).

Commentors have asked whether it is reasonable to assume that a similar percentage of future SUMC employees would live proximate to Caltrain as occurs under existing conditions. Trying to determine the future location of Hospital employees is difficult. Residence and work choices consider commute conditions. Unless there are drastic changes in the commute conditions, future choices are likely to be similar to current

choices. The best source of future employee location of residence is the place of residence of existing employees. Therefore, the Transportation Impact Analysis relied on the existing Hospital employee place of residence to determine future travel patterns.

Based on Stanford University's experience with the GO Pass, it can be conservatively assumed that Hospital employee transit use would at least double from about 3.5 percent to 7 percent with the introduction of GO Passes and could achieve substantially higher levels of use over time. The steady rise in Caltrain use by Stanford University employees since 2002 is a good indicator of the effectiveness of the GO Pass program, and there are likely to be additional changes in travel behavior due to increasing congestion on area freeways and rising fuel costs. It is very likely that Caltrain use by Hospital employees could be at the 15.8 percent level with the GO Pass and supporting shuttle service, which is the level Stanford University achieved in 2006.

**Future Viability of Caltrain**

Some commentors have noted that Caltrain is experiencing financial difficulty and have asked whether it is reasonable to rely upon provision of the GO Pass as mitigation in light of those concerns. All local and regional transit agencies are currently experiencing financial difficulties. There would be considerable changes to commuting behavior if all transit agencies were to discontinue operations. Given the high volume of ridership, it is not likely that the transit services would cease to exist. More likely, cutbacks would occur outside of the Peak Hours minimizing the effect on employee commute trips.

Caltrain, along with Metrolink in Los Angeles, are the most successful commuter rail systems on the West Coast, each carrying approximately 40,000 passengers per day. The complete loss of Caltrain service would add about 37,000 daily vehicle trips to Peninsula roadways if each current rider shifts to driving (assuming an occupancy rate of 1.1 person per car). This increase in traffic would have considerable effects on roadways in Palo Alto and up and down the Peninsula, independent from the SUMC Project. Such effects could not be addressed through mitigation measures imposed on a single project. Rather, a regional solution would need to be developed.

Caltrain's biggest challenge is its funding mechanism, which comes from three agencies: San Francisco Transportation Authority, San Mateo County Transportation Authority, and Santa Clara Valley Transportation Authority. Each of these agencies is experiencing financial constraints, which affect their allocation of funding to Caltrain. However, continued funding of Caltrain by these agencies or alternatively the creation of an independent funding source for Caltrain are the most likely solutions to be pursued.

Having employers such as the SUMC Project sponsors participate in the GO Pass program provides benefits to Caltrain. Issuing GO Passes to existing and future Hospital employees represents an annual cost for the SUMC Project sponsors. As explained above, this cost is estimated to be $1.8 million per year. This expenditure would contribute to support Caltrain's financial stability.

In sum, it is not likely that transit service on the Peninsula would cease to exist. Participation in programs such as the Caltrain GO Pass benefits transit operators. To the extent cutbacks occur, they likely would be outside of peak commute periods. In the unlikely event that Caltrain were to shut down operations, regional solutions would be needed to address the needs of the high volume of Caltrain ridership. Such regional solutions are outside of the control of individual project sponsors.

**Revised FEIR Mitigation Measure**

Mitigation Measure TR-2.3 requires that the SUMC Project sponsors enhance the currently-implemented TDM Program to achieve a 35.1 percent usage of alternative transportation modes (i.e., carpool, vanpool, bus, Caltrain, bicycle, and walk) by Hospital employees by build-out and full occupancy of the SUMC Project in 2025. Mitigation Measure TR-2.3 also requires that annual TDM monitoring be performed and a report submitted to the City documenting that the desired modal split to alternative forms of travel and away from a drive-alone commute is actually achieved. Mitigation Measure TR-2.3 has been refined based upon further discussions between City staff and the SUMC Project sponsors, and the key components now are as follows:

1. GO Pass or Equivalent Program

- Commencing on September 1, 2015, the Hospitals shall purchase annual Caltrain GO Passes (free train passes) for all existing and new Hospital employees who work more than 20 hours per week, at a cost of up to One Million Eight Hundred Thousand Dollars ($1,800,000) per year, which amount shall be adjusted annually to reflect any change in the San Francisco Bay Area Consumer Price Index (the "GO Pass Amount"). The Hospitals' obligation under this mitigation measure to provide GO Passes shall continue for the life of the Project (51 years), or until such earlier date as: (a) Caltrain discontinues the GO Pass program, or a substantially similar program; (b) Caltrain increases the cost of GO Passes, or a substantially similar program, such that the Hospitals' annual costs would exceed the GO Pass Amount; or (c) Caltrain service is reduced by such an extent that the Hospitals and the City mutually determine purchase of annual GO Passes, or a substantially similar program, would no longer be effective in substantially reducing Hospital employee peak period trips in order to achieve the Alternative Mode targets specified in the DEIR. If the cost of obtaining GO Passes exceeds the GO Pass Amount, the Hospitals shall have the option to elect either to

purchase the GO Passes at the then applicable price, or to terminate the obligation to provide GO Passes, or a substantially similar program. If the Hospitals' obligation to provide GO Passes, or a substantially similar program, terminates for any of the reasons specified in this mitigation measure, the Hospitals shall contribute the GO Pass Amount to one or more substitute programs to encourage use of transit by Hospital employees or otherwise reduce peak period traffic trips in the intersections impacted by the Project as identified in the Project EIR. The substitute program or programs shall be mutually agreed upon by the SUMC Project sponsors and the City's Director of Planning and Community Environment.

2. AC Transit Measures

    - Use all reasonable efforts to arrange with AC Transit to lease 75 spaces at the Ardenwood Park & Ride Lot, or an equivalent facility, to serve SUMC employees who commute from the East Bay.

3. Expanded Marguerite Shuttle

    - The Hospitals shall fund the reasonable costs, in an approximate amount of Two Million Dollars ($2,000,000), for the purchase of additional shuttle vehicles for the Marguerite shuttle service, as and when required to meet increased demand for shuttle service between the Project Sites and the Palo Alto Intermodal Transit Station. In addition, for the life of the Project, the Hospitals shall fund as Annual Payments the reasonable costs, in an approximate amount of Four Hundred Fifty Thousand Dollars ($450,000) per year, to cover the net increase in operating costs for the Marguerite Shuttle.

4. U Line

    - Use all reasonable efforts to assure that the controlling transit agency maintains load factors less than 1.00 on the U Line.

5. Bicycle and Pedestrian Connections

    - Expand and improve the bicycle and pedestrian networks as specified by Project site plans and Mitigation Measure TR-6.1.

6. Other TDM Measures

    - Commencing on September 1, 2015, and continuing through the life of the Project, the Hospitals shall employ an onsite qualified Transportation Demand Management ("TDM") coordinator for the SUMC. The coordinator would be responsible for organizing and disseminating TDM information primarily to Hospital employees and also to Hospital patients. A central location would be made available to provide information on alternative travel modes. Also, the SUMC or Hospitals' website would contain information on TDM programs.

- Provide a guaranteed ride home program for all employees who use transit and other transport alternatives like carpool and vanpool. The guaranteed ride home shall allow employees with dependent children the ability to use alternative modes to travel to and from work but still be able to travel home mid-day in case of an emergency.

- Provide employees with shower facilities within the SUMC Sites to encourage bicycling to work. The SUMC Project sponsors shall also provide bicycle storage facilities on the SUMC Sites that would be conveniently located near the employee showers.

- Establish, in conjunction with the GO Pass implementation, a "Zip Car" (or other similar car-sharing program) with Zip Cars available at the medical complex.

7. TDM Monitoring and Phase In

- The Hospitals shall submit annual reports showing the current number of employees employed over 20 hours per week; the number of employees using an alternative mode share as documented by a study or survey to be completed by the Hospitals using a method mutually agreeable to the City and Hospitals; and the efforts used by the Hospitals to attempt to achieve the Alternative Mode targets.

- The City and the SUMC Parties acknowledge that because use of transit by employees of the Hospitals is voluntary, and may be influenced by a number of factors outside of the reasonable control of the Hospitals, such as gasoline prices, costs and availability of alternative transit, housing costs and availability, and personal preferences of employees, the Hospitals cannot guaranty the results of their TDM programs. However, the Hospitals shall monitor the success of their TDM programs from the date of the Initial Project Approvals until 2025. The following interim targets shall be used to measure the progress toward meeting the desired mode split in 2025. These interim targets assume that in the early phases of implementation, there may be larger shifts to alternative modes than the shifts that may occur in later phases of the TDM program enhancement. For purposes of calculating alternative mode share, any mode that does not constitute driving in a single-occupant vehicle to and from the work site shall be considered an "Alternative Mode," including working remotely from home.

| **Target Year** | **Alternative Mode Share** | **Percent Change** |
|---|---|---|
| EIR Baseline (2006) | 22.9 % | NA |

| | | |
|---|---|---|
| Project Approval Baseline (2011) | TBD | TBD |
| 2018 | 30 % | 7.1% |
| 2021 | 33 % | +3 % |
| 2025 | 35.1 % | +2.1 % |

8. Mode Split Penalties

- If the applicable interim target is not met for any two consecutive years prior to 2025, the Hospitals shall provide alternative transportation funding to the City in Annual Payments in the amount of One Hundred Seventy Five Thousand Dollars ($175,000) per year until the earlier of the year 2025 or the year the applicable interim mode split target is achieved, subject to a maximum of five Annual Payments. The alternative transportation funding must be used by the City for local projects and programs that encourage citywide use of alternative transportation mode uses.
- If by 2025, the Hospitals have not demonstrated substantial achievement of the Thirty Five and One-Tenth Percent (35.1%) target modal split for alternative transportation modes, the Hospitals shall make a lump sum payment of Four Million Dollars ($4.0 million) to the City for local projects and programs that encourage and improve citywide use of alternative transportation mode uses. If required, said $4 million payment shall constitute a penalty for the failure to achieve the target modal split of 35.1% by 2025, and shall not relieve the SUMC Parties of any of its other obligations under this mitigation measure, which shall continue pursuant to the terms of this Agreement. The City shall keep all payments received from the Hospitals pursuant to this mitigation measure in a separate account (the "TDM Fund"), to be used only for the purposes described in this mitigation measure. The City shall deliver to the SUMC Project sponsors an annual report of disbursements from the TDM Fund.

**Comparison of Cost Effectiveness of Private Bus Service to the Go Pass**

As explained above, the provision of the Caltrain GO Pass to Hospital employees is expected to be an effective measure to reduce vehicle trips and associated air pollutant emissions, including greenhouse gases. Further, it is unlikely that commuter train service would cease to exist on the Peninsula. Nevertheless, if such an event were to occur, or if the GO Pass program were to cease to exist in its present form, the SUMC Project sponsors have offered as part of the Development Agreement to re-allocate the GO Pass money to other trip reduction programs. Accordingly, money from the SUMC Project

sponsors could be used to subsidize a future regional solution developed in response to changes to the Caltrain service or GO Pass Program.

This portion of Master Response 1 explores an alternative approach under which the City would require the SUMC Project sponsors to provide a private bus service for their employees, rather than funding the GO Pass Program or other regional transportation solutions. Information has been collected regarding shuttle bus operations from private companies. This information is presented below, including an estimate of the cost. Provision of private bus service sufficient to yield the same Peak Hour trip reduction as would result from provision of the GO Pass is estimated to cost approximately $10.7 million per year.

For purposes of comparison, provision of GO Passes for all Hospital employees would cost approximately $2.25 million annually. This amount is based on Caltrain GO Pass rates for 2011. Caltrain has increased the GO Pass cost in January 2011 from $140 per pass per year to $155 per pass per year, a nearly 11 percent increase. The per pass cost multiplied by 11,500 Hospital employees totals approximately $1.8 million per year. Provision of expanded Marguerite shuttle service to accommodate increased ridership between the SUMC and Caltrain is estimated to cost approximately $450,000 per year in operating costs (including capital depreciation). In addition, capital costs of new shuttles for the expanded Marguerite service are expected to add $2 million.

**Employer-Provided Shuttles**

The following analysis presents an example of a successful employer-provided shuttle program currently being implemented in the Bay Area and compares it with the SUMC conditions to determine if it is viable for the SUMC Project sponsors to implement a similar scheme.

**Existing Example.** Several large employers in the Bay Area provide dedicated shuttle services to carry Bay Area employees to their campuses. These include Google, Apple, Genentech, Facebook and Yahoo. As privately-operated systems, operating data is difficult to obtain. The most information was available about Google, and it is the subject of this example.

Google Inc, located in Mountain View, started its shuttle service in 2004. Today, 50 buses provide about 170 shuttle service runs from different parts of the Bay Area to its Mountain View headquarters and two other Bay Area campuses (San Francisco and San Bruno). There are 45 pick-up locations in the Bay Area with services starting as early as 5:00 am. The last pick-up for the AM peak service is at 10:40 a.m. The evening service runs from 3:40 p.m. to 10:00 p.m. The highest pickup frequency during the peak period

is every five minutes. There are about 10,000 employees at the Mountain View campus, 500 employees at the San Francisco campus and 300 at the San Bruno campus. Currently, approximately 20 percent of Google employees make use of the shuttle service. In order to meet the constant change and increase in demand, Google has transportation coordinators who monitor the employees' residence location and regional traffic pattern to plot new routes.

**Operating Cost.**

Using the data collected regarding the Google system, the bus system for 10,000 employees at a 20 percent usage rate requires approximately 50 buses operating approximately an average of 8 hours per day. This assumes that half of the buses operate 12 hours per day and half operate six hours per day. Not all of the buses would be needed during the "shoulders" of the Peak Period (i.e., 5:00 a.m. to 6:00 a.m., 9:00 a.m. to 11:00 a.m., and 7:00 p.m. to 10:00 p.m.). Based on Stanford's experience in operating the Marguerite system, the operating cost per bus hour is $80. Annual operating costs therefore would equal $80 per bus per hour multiplied by 8 hours per day multiplied by 254 days per year multiplied by 50 buses, for a total of $8.1 million per year. In addition, the Hospitals would have to incur capital costs associated with the purchase of 50 highway buses, which are estimated to cost approximately $500,000 per bus (for a non-hybrid model), resulting in a cost of $25 million for the bus fleet. Assuming that each bus would last approximately 10 years, the amortized annual capital cost is estimated as $2.6 million per year. Thus, the total annual cost (operating plus capital costs) would be $10.7 million per year.

**Conclusion.** This represents the upward range of an alternative shuttle program that would be as effective as the GO Pass program. A more economical program could also be implemented through the contracting with another transit agency such as SamTrans. In the event CalTrain were to go away or the level of service significantly reduced, it is likely that a strong market demand would develop and additional lower cost transit options would emerge.

Attachment E

# Analysis of SUMC Development Agreement Proposal
## Updated March 9, 2011

| Item Description | | SUMC Proposal | | City Staff Response |
|---|---|---|---|---|
| **Health Care** | | | | |
| In-patient and out-patient services | $ | 3,000,000 | | 3,000,000 |
| Community health programs | | 4,000,000 | | 4,000,000 |
| **Total Health Care** | **$** | **7,000,000** | **$** | **7,000,000** |
| **Reduced Vehicle Trips** | | | | |
| Four new shuttles | $ | 2,000,000 | | Mitigation |
| Shuttle operations over 51 years | | 22,950,000 | | Mitigation |
| GO PASS over 51 years | | 90,907,500 | | Mitigation |
| **Sub Total** | **$** | **115,857,500** | | |
| | | | | |
| TDM Coordinator | $ | 5,100,000 | | Mitigation |
| AC Transit and U-Line-Capital | | 250,000 | | Mitigation |
| AC Transit and U-Line -Operating | | 2,550,000 | | Mitigation |
| East Bay Transit options - Ardenwood Lease | | 2,295,000 | | Mitigation |
| **Sub Total** | **$** | **10,195,000** | **$** | **-** |
| **Total Reduced Vehicle Trips** | **$** | **126,052,500** | **$** | **-** |
| **Linkages** | | | | |
| Improvements to enhance the pedestrian and bicycle connection | $ | 2,250,000 | | Mitigation |
| Improvements to the public ROW to enhance the ped/bike connection | $ | 400,000 | | Mitigation |
| Improvements t enhance ped connection between SUMC/SSC/Welch Rd | $ | 700,000 | | Mitigation |
| **Total Linkages** | **$** | **3,350,000** | **$** | **-** |
| **Housing** | | | | |
| Housing Impact Fee | $ | 1,720,488 | | Required Impact Fee |
| Housing/Sustainable Neighborhoods and Communities | $ | 21,479,512 | $ | 21,479,512 |
| **Total Housing** | **$** | **23,200,000** | **$** | **21,479,512** |
| **Climate Change/Sustainable Communities** | | | | |
| Defined contribution | $ | 12,000,000 | $ | 12,000,000 |
| **Total Climate Change/Sustainable Communities** | **$** | **12,000,000** | **$** | **12,000,000** |
| **Fiscal** | | | | |
| Upfront Contribution/Cost Neutrality Assurance | $ | 1,100,000 | $ | 1,100,000 (1) |
| Use Tax Direct Payment Permit | | 750,000 | $ | 750,000 |
| **Total Fiscal** | **$** | **1,850,000** | **$** | **1,850,000** |
| | | | | |
| **TOTAL** | **$** | **173,452,500** | **$** | **42,329,512** |

**Defined as a mitigation in DEIR/Requiired Impact Fee**

**Notes:**

(1) City proposes cost neutrality agreement to ensure projected revenues exceed City expenses

# SUMC Parties' Proposal for City of Palo Alto Fiscal Cost Neutrality

The SUMC parties have considered carefully the core issues that surround the divergent views over how to assure the City a reasonable degree of fiscal cost neutrality for the SUMC Project as proposed. Those core issues are, first, how to calculate City costs attributable to the Project and, second, what impact, if any, future inflation will have on both Project revenues and cost.

**Cost-Assignment.** The City's (ADE) approach and the SUMC parties' (CBRE) approach to assigning future City operating expenses as a result of the SUMC Project are significantly different, resulting in a non-inflated cost differential of $9.5M over the 30-year Development Agreement period. ADE calculates a net deficit or -$1.1M; CBRE calculates a net positive of $8.4M. From time-to-time, the City has noted that neither approach is irrefutable and that the answer probably lies somewhere in the middle. We firmly believe that the CBRE fixed cost-plus-incremental approach is, for an infill project which only increases City employment by about 2%, far more logical and realistic. This is because costs of certain city-provided services in a built-out environment do not increase proportionate to increased employment in the community, even though costs of other city services may experience such a proportionate increase. We also note that both consultants have been extremely conservative in calculating city costs in that they assume very high increases in police and fire costs, even though replacement of older buildings and expansion of existing hospitals and medical school buildings is not likely to result in such numbers, especially given the state-of-the-art fire protection mechanisms in the new buildings and the robust private security system in the hospitals. Nevertheless, we present both the ADE and CBRE cost estimates below.

**Cost Inflation.** Regarding inflation, the City ADE approach diverges significantly from CBRE's in that ADE assumes that the City's labor cost component would be significantly higher than the inflation factors for CPI and for construction indices. The annual factors used by ADE are as follows: construction -- related revenues 3.27%, CPI (U.S.) 2.39%, property tax revenues 2%, CPI (S.F.) 2.36% and City labor costs 4.52%. We feel that the ADE is predicting a wholly unsustainable labor cost increase which dramatically outpaces overall City revenues and continues for at least 30 years and up to 52 years. While the City may currently be experiencing escalating labor costs, we would expect that, going forward over a 30-year or longer period, the City would take steps to rectify the situation—and new hires resulting from SUMC Project-related needs would not be given contracts that allow such an untenable situation to continue. The SUMC parties' consultant, CBRE, on the other hand, estimates an inflation component for City labor costs closer to general revenue growth or the CPI (S.F.)

**Present Value.** Since both consultants are making predictions about revenues and costs that occur well into the future, it's necessary to convert those forecasts into present value calculations in order to understand what the numbers mean in terms of today's dollars. The net cumulative results can be compared as follows:

**Revised ADE and CBRE Dynamic Fiscal Impact Analysis**
**SUMC Project**
**Present Value and Inflation-Adjusted Analysis (1)**
**30 Years and Project Life (2)**
**March 11, 2011**

| Discount | 4.52% Labor Escalation Rate (3) | | CPI (SF) Labor Escalation Rate (4) | |
|---|---|---|---|---|
| Rate | 30 years | Project Life (2) | 30 years | Project Life (2) |
| **Applied Development Economics Analysis** | | | | |
| 5% | ($1,656,520) | ($11,833,466) | $3,274,149 | $578,761 |
| 6% | ($395,488) | ($7,273,569) | $3,666,534 | $1,827,173 |
| **CBRE Consulting Analysis** | | | | |
| 5% | $4,334,370 | ($1,413,390) | $7,765,995 | $7,225,394 |
| 6% | $4,678,799 | $803,324 | $7,505,889 | $7,137,350 |

Source: CBRE Consulting

Notes:

(1) Variable escalation rates used, pursuant to ADE's Revised March 7, 2011 Dynamic Analysis, as follows:

| | |
|---|---|
| ENR (Building) | 3.27% |
| CPI (US) 2000-2010 | 2.39% |
| Property Tax | 2.00% |
| CPI (SF) 2000-2010 | 2.36% |
| City Labor Costs (63% of Total) | 4.52% |

ADE's analysis assumes 3 years of inflation are in place by 2011, the first analytical year in the fiscal analysis.
(2) Project life defined as 52 years by ADE.
(3) Results using all escalation rates estimated by ADE, including 4.52% for the labor share of City costs (labor share estimated by ADE at 63%). The balance of City costs are escalated at the CPI (SF).
(4) Results using the CPI (SF) for the labor share of City costs:

For a 30-year period, this comparison suggests a risk of being less than cost neutral <u>only</u> when the ADE approach to both cost assignment and unsustainable City labor cost inflation are assumed. If ADE's cost assignment approach were used, but instead of using ADE's unsustainable labor cost inflation, CPI inflation for City labor costs are assumed, the Project achieves amounts that are revenue positive on a present-value basis for a 30-year period. Alternatively, if the SUMC parties' consultant's (CBRE) approach to cost assignment is used (under which only certain city costs grow along with SUMC project square footage and employment), <u>and ADE's unsustainable labor cost inflation of 4.52% is used</u>, the present value net revenue is **still** positive over a 30-year period.

We feel that assuming an unsustainable level of 4.5% per year for City labor cost inflation in a 2.4% CPI inflation environment for more than 30 years reflects not only budget unsustainability but also a sheer lack of budget administration and control. And none of the parties should accept such an assumption or condition.

# SUMC Parties' Proposed Cost Neutrality Assurance Development Agreement Terms

**March 11, 2011**

5. SUMC Parties' Promises

(b) Palo Alto Fiscal Benefits.

(i) Payment of Sales and Use Taxes

(a) Designation of Project for Sales and Use Tax Purposes. The SUMC Parties shall accrue or self report sales and use taxes for the benefit of the City pursuant to the applicable regulations of the State Board of Equalization (the "SBOE"), and any additional regulations issued or amendments made thereto, for the purpose of maximizing the City's allocation of sales and use taxes derived from the Project available under the applicable laws and regulations. To this end, the SUMC Parties shall: (i) obtain all permits and licenses necessary to maximize the City's allocation of sales and use taxes derived from the Project, including but not limited to California Seller's Permits, Use Tax Direct Payment Permits, and any other license or permit necessary or desirable to maximize the City's allocation of sales and use taxes derived from the Project; (ii) designate, and require, to the extent feasible, its contractors and subcontractors to designate, the Property as the place of sale of all "fixtures" furnished and/or installed as part of the Project; (iii) designate, and require, to the extent feasible, all its contractors and subcontractors to designate, the Property as the place of use of all "materials" used in the construction of the Project; (iv) require, to the extent feasible, all contractors and subcontractors holding contracts to allocate the local sales and use taxes derived from such contracts directly to the City, to the maximum extent permitted by law. The SUMC Parties shall require its contractors and subcontractors to complete and file any forms as the SBOE requires to effect the designations required by this Section pursuant to the applicable regulations of the SBOE. The SUMC Parties shall bear all costs associated with its activities under this Section 5(b)(i).

(b) Direct Pay Permit for Sales and Use Taxes from Existing Facilities. Within thirty (30) days of the Effective Date, the Hospitals shall obtain a use tax direct payment permit from the State of California in order to increase, on an ongoing basis, the City tax allocation for the Hospitals' purchases. The Hospitals shall maintain the use tax direct payment permit for the Life Of The Project, unless the State of California ceases to continue to administer the use tax direct pay permit program or a substantially equivalent program.

(c) Establishment of Retail Sales and Use Tax Reporting District. The SUMC Parties shall cooperate in good faith with the City to assist the City in establishing and administering a Retail Sales and Use Tax Reporting District that includes the Property and the Project, to enable the City to track the generation, allocation, reporting and payment of sales and use taxes derived from the Project. Such cooperation shall

However, in order to provide the City with an ample and conservative risk hedge for the ADE-projected net present value revenue deficit of $1.7M (-$1.7M) over 30 years (i.e. assuming both ADE's cost assignment methodology AND continued unsustainable annual City labor cost inflation of 4.52%), the SUMC parties will agree to increase their offer of an upfront fiscal contribution to the City from $1.1M to $1.7M. This will ensure that the project is cost-neutral even under ADE's worst-case assumptions.

In addition, the SUMC parties are aware that both consultants (ADE and CBRE) based their revenue projections on assumptions that certain revenues will flow to Palo Alto due to allocation of sales and use taxes during both the construction period and post-construction facility operations. First, the SUMC parties will agree to institute immediately the Direct Pay Use Tax permits necessary to capture existing purchases at the SUMC and thereby provide at least an additional estimated $750,000 (non-inflated) over 30 years. This money will flow to the City for *existing* SUMC hospital facilities and operations, so is simply revenue added without any associated City costs.

Second, the SUMC parties will agree to take the steps needed to obtain necessary permits, work with SUMC Project construction contractors, and work with City staff to provide for the maximum, feasible on-site sales and use tax allocation to the City applicable to construction and facility operations. We attach Development Agreement terms that would implement each of these components of our revised offer.