

City of Palo Alto City Council Staff Report

(ID # 8780)

Report Type: Consent Calendar Meeting Date: 4/9/2018

Summary Title: Release of Approved Funding of \$2.5 Million in Form of a

Grant Payment to Avenidas

Title: Approval of \$2.5 Million Grant From the Community Center Impact Fee Fund to Avenidas for the Cost of Rehabilitation and Expansion of the City Owned Building Located at 450 Bryant Street; Approval of a Budget Amendment in the Community Center Impact Fee Fund

From: City Manager

Lead Department: Administrative Services

RECOMMENDATION

Staff recommends that Council:

- 1. Approve a grant of \$2.5 million from the Community Center Impact Fee Fund to Avenidas for rehabilitation and expansion of the City owned Avenidas Building at 450 Bryant Street.
- 2. Amend the Fiscal Year 2018 Budget Appropriation for the Community Center Impact Fee Fund by:
 - a. Increasing the interagency expense appropriation by \$2,500,000, and
 - b. Decreasing the ending fund balance by \$2,500,000.

EXECUTIVE SUMMARY

Avenidas is the sole provider of comprehensive programs and services for older adults in Palo Alto. Avenidas is housed in a City owned building at 450 Bryant Street, in what was once Palo Alto's original Police and Fire building. Avenidas has been operating at this location since 1977 on a long term lease agreement with the City of Palo Alto. On January 1, 2015, Avenidas and the City entered into a new fifty (50) year lease agreement in anticipation of beginning a capital campaign to raise an estimated \$18 million for a major renovation project to address needed building repairs, seismic upgrades, and expansion of the existing building to meet the needs of the ever growing older adult population in Palo Alto.

On October 10, 2015, in response to request from the Board of Directors of Avenidas, the City Council approved a \$5 million contribution in form of a grant to cover the costs of deferred

maintenance and renovation, including the necessary seismic upgrade of the City owned building in <u>CMR ID# 5992</u>. The request for City funding was driven by Avenidas' assessment of the limits of private fundraising in reaching their goal.

The renovation of the Avenidas Building has been on-going since August 2017. Avenidas has asked the City to release \$2.5 million of the total \$5.0 million grant at this time. Concurrently, Staff has been working on the certification of the Transfer Development Rights (TDR) for the Avenidas Building and will return to Council at a later date to request the eligibility of the Avindas building as a "Sender Site" in the Transfer Development Rights program to facilitate the payment of the remainder of amount of \$2.5 million to Avenidas. At that time, Council May be asked to consider funding some of all of the initial \$2.5 million from the sale of the TDRs, which would, if approved, backfill Community Center Funds, making them available for other projects.

BACKGROUND

A. Project Description

Over the past 5 years, employing various strategies and activities including raising funds from private and public sources, Avenidas has raised sufficient capital to complete a comprehensive rehabilitation and seismic retrofit of the Avenidas Building to improve and expand its services to the senior population in the area and bring the building up to date with current building codes. The total cost of the project is projected to be \$19.7 million, of which Avenidas has raised \$18 million, which includes the \$5 million grant from the City. Construction began in December of 2017 and the project has reached the thirty percent (30%) completion stage, with March 2019 as the current projected completion date for the renovation. The project plans that were approved by Architectural Review Board include the following improvements:

- Proposed interior renovation and addition of 7,158 square foot to the net floor area.
- Remodel of the existing building.
- Replacing and updating the old mechanical, electrical and plumbing systems.
- Seismic upgrade to current standards.
- Installation of an ADA-compliant elevator.

B. Actions to Date:

Architectural Resources Group, Inc. (ARG) completed a Historic Resource Evaluation (HRE) in connection with the proposed rehabilitation and new addition to the former Police and Fire Building at 450 Bryant Street in Palo Alto. The property is listed as a Category 2 building ("Major Building" of regional importance) in Palo Alto's Historic Inventory, and is recognized as a Point of Historical Interest by the State of California. These designations qualify the building for consideration as a "historical resource" per the California Environmental Quality Act (CEQA). In California, historical resources must be considered in the environmental review process. In general, a project involving a historical resource that has been determined to comply with the Secretary of the Interior's Standards can be considered a project that will not cause a significant impact on the historic resource per CEQA.

DISCUSSION

The City and Avenidas have executed the grant agreement (Attachment A) dated February 28, 2018 that sets the terms and condition for providing and acceptance of the grant by both parties. Avenidas has focused on moving this project forward by raising funds from private donors, applying for grants from various sources and processing applications for appropriate permits from the City to assist with fund raising efforts to capitalize its construction budget for rehabilitation of the Building. At the present time, the projected budget needed to complete the rehabilitation for the Avenidas Building is \$19.7 million. In order to close the gap between what has been raised and the cost of rehabilitation project, Avenidas has submitted a \$2.5M grant proposal to the Weinberg Foundation and continues to pursue other potential major donors. If Avenidas is unable to raise the needed fund to finish the project, they will take \$2.5M (or whatever the remaining gap amount is) out of their endowment. Currently, the renovation phase is 30% complete and the anticipated completion date is late February of 2019. The funds are eligible for release since Avenidas has fulfilled its fund raising goal for the construction phase of the project from other potential sources. Avenidas has obtained all the required City permits and approval for the renovation project, and has executed the grant agreement with the city.

TIMELINE

Staff will return to Council in the future to provide an update of the progress of project, request the eligibility of TDR program for the site and facilitate the release of an additional \$2.5 million to Avenidas according to the terms and conditions of the grant agreement with the City of Palo Alto. In the meantime, the Avenidas project will continue its progress toward completion.

RESOURCE IMPACT

Staff recommends the approval of a Budget Amendment in the Community Center Impact Fee Fund to process a \$2.5 million payment to Avenidas for renovation costs, which is half of the \$5.0 million originally granted from the City to Avenidas in CMR 5992. This will help Avenidas maintain the construction timeline while staff undergoes the process of recommending to Council to sell Transfer Development Rights (TDRs) which are planned to be used to fund the remaining \$2.5 million of the grant.

POLICY IMPLICATIONS

This recommendation is consistent with existing City policy. The payment of funds through a grant to Avenidas has been approved by the City Council and the grant agreement has been executed by both parties.

ENVIRONMENTAL REVIEW

The release of grant funds is categorically exempt from California Environmental Quality Act (CEQA) review under CEQA guidelines se. The rehabilitation project is Categorically Exempt from CEQA review pursuant to CEQA guidelines section 15331, Historical Resource Restoration/Rehabilitation, as a project limited to maintenance, repair, and rehabilitation in accordance with the secretary of interior standards for historic preservation.

Attachments:

• Attachment A: CPA Avenidas_Grant_Agreement

Attachment A

GRANT AGREEMENT BETWEEN CITY OF PALO ALTO & AVENIDAS

GRANT AGREEMENT

between

CITY OF PALO ALTO

and

AVENIDAS

THIS GRANT AGREEMENT (this "Agreement") is made this February 28, 2018, in Palo Alto, California, by and between **AVENIDAS**, a non-profit, tax-exempt organization ("Grantee" or "Avenidas") and the **CITY OF PALO ALTO**, a California chartered municipal corporation ("City") acting by and through the Agency (as defined below).

RECITALS

WHEREAS, in a letter dated April 15, 2015 (the "Grant Proposal" as defined below), Avenidas submitted to the City a request for grant funding in the amount of five-million dollars to make necessary seismic and other improvements to the existing building at 450 Bryant Street, Palo Alto, California (the "Premise") as detailed in the Grant Proposal; and

WHEREAS, the Premise is leased to Avenidas by the City under a fifty (50) year lease agreement between the parties dated January 1, 2015 (the "Lease" as defined below), for the purpose of providing support services to older adults and their caregivers and related services as detailed in the Lease; and

WHEREAS, the Palo Alto City Council approved on October 19, 2015 a motion to provide a grant to Avenidas in the amount of five million dollars to make necessary seismic and other improvements to the Premise; and

WHEREAS, City desires to provide, and Avenidas desires to accept, such grant funding on the terms and conditions set forth herein:

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 DEFINITIONS

- **1.1 Specific Terms**. Unless the context otherwise requires, the following capitalized terms (whether singular or plural) shall have the meanings set forth below:
- (a) "**ADA**" shall mean the Americans with Disabilities Act (including all rules and regulations thereunder) and all other applicable federal, state and local disability rights legislation, as the same may be amended, modified or supplemented from time to time.

- (b) "Agency" shall mean the CITY MANAGER.
- (c) "Charter" shall mean the City's City Charter.
- (d) "**Fiscal Year**" shall mean each period of twelve (12) calendar months commencing on July 1 and ending on June 30 during all or any portion of which this Agreement is in effect.
- (e) "**Funding Request**" shall have the meaning set forth in Section 4.3 ("Disbursement Procedures") herein.
- (f) "**Grant Funds**" shall mean any and all funds provided to Grantee by City pursuant to this Agreement.
- (g) "Grant Proposal" shall mean the letter from Avenidas detailed in Recitals paragraph 1 herein, including all exhibits, appendices and attachments thereto, in accordance with the motion approved by the City Council at its October 19, 2015 meeting, and as may be modified by all planning entitlements and supporting documents approved by the City in relation to the construction that is the subject of the Grant Proposal. The Grant Proposal, included as Appendix B ("Grant Proposal") hereto, is hereby attached and incorporated into this Agreement by reference as though fully set forth herein.
- (h) "Lease" shall mean the lease between the parties detailed in Recitals paragraph 1 herein, including all exhibits, appendices and attachments thereto, and as may be amended by the parties in writing as provided for therein. The Lease, included as Appendix C ("Lease Agreement") hereto, is hereby attached and incorporated into this Agreement by reference as though fully set forth herein. In the event of a conflict between the provisions of the Lease and the provisions of this Agreement, the provisions of the Lease shall control.

ARTICLE 2 TERM; EFFECTIVE DATE

- **2.1 Term of Agreement**. The term of this Agreement shall commence on the later of (a) **February 16, 2018** and (b) the effective date specified in Section 2.2 ("Effective Date of Agreement") herein. Such term shall end at 11:59 p.m. Pacific time on **June 30, 2019**. In the event that the Grant Proposal is not completed within the term, the City's City Manager will have the option of extending the term for any period of time. Any such extension will not preclude any other rights or remedies available to City under this Agreement or by law.
- **2.2 Effective Date of Agreement**. This Agreement shall become effective when approved by the City Council and executed by the authorized representatives of the parties.

ARTICLE 3 IMPLEMENTATION OF GRANT PROPOSAL

3.1 Implementation of Grant Proposal. Grantee shall, in good faith and with diligence, implement the Grant Proposal on the terms and conditions set forth in this Agreement and the Grant Proposal. Grantee shall not materially decrease the nature or scope of the Grant Proposal without the prior written consent of City.

3.2 Grantee Personnel. The Grant Proposal shall be implemented only by competent personnel under the direction and supervision of Grantee as employees or subcontractors of Grantee as detailed herein or in the Grant Proposal or as otherwise permitted by prior written consent of City.

ARTICLE 4 USE AND DISBURSEMENT OF GRANT FUNDS

- **4.1 Amount of Grant Funds.** The amount of the Grant Funds disbursed hereunder shall not exceed Five Million Dollars (\$5,000,000), to be disbursed in two installments as follows:
- (a) Two Million Five Hundred Thousand Dollars (\$2,500,000) shall be disbursed to Grantee upon the occurrence of the Effective Date of Agreement pursuant to Section 2.2 ("Effective Date of Agreement") herein and according to the provisions of Section 4.3 ("Disbursement Procedures") herein.
- (b) The remaining Two Million Five Hundred Thousand Dollars (\$2,500,000) shall be disbursed to Grantee upon request in Fiscal Year 2019, according to the provisions of Section 4.3 ("Disbursement Procedures") herein.
- **4.2 Use of Grant Funds**. Grantee shall use the Grant Funds only for implementation of the Grant Proposal, in accordance with the motion approved by the City Council at its October 19, 2015 meeting, and for no other purpose, unless pursuant to a written amendment to this Agreement as provided for in Section 15.2 ("Modification of Agreement") herein.
- **4.3 Disbursement Procedures**. Grant Funds shall be disbursed to Grantee as follows:
- (a) Grantee shall submit to the Agency, in the manner specified for notices pursuant to Article 13 ("Notices") herein, a document (a "Funding Request") substantially in the form attached as Appendix A ("Form of Funding Request") hereto, with regard to the applicable installment of Grant Funds under Section 4.1 ("Amount of Grant Funds") herein.
- (b) The Agency shall make all disbursements of Grant Funds pursuant to this Section by check payable to Grantee, sent via U.S. mail in accordance with Article 13 ("Notices") herein, unless the Agency otherwise agrees in writing, in its sole discretion.
- **4.4 Fiscal Provisions; Appropriation**. This Agreement is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code. This Agreement will terminate without any penalty (a) at the end of any Fiscal Year in the event that funds are not appropriated for the following fiscal year, or (b) at any time within a Fiscal Year in the event that funds are only appropriated for a portion of the Fiscal Year and funds for this Agreement are no longer available. This Section 4.4 will take precedence in the event of a conflict with any other covenant, term, condition, or provision of this Agreement.

ARTICLE 5 REPORTING REQUIREMENTS; AUDITS

5.1 Reports. Upon request, Grantee shall provide, in a reasonably timely manner, financial, operational and other reports as reasonably requested by the City.

- **5.2 Organizational Documents**. If requested by City, Grantee shall provide to City the names of its current officers well as satisfactory evidence of the valid tax-exempt status described in Section 7.1 ("Organization; Authorization") herein.
- **5.3 Notification of Defaults or Changes in Circumstances**. Grantee shall notify City immediately of (a) any Event of Default or event that, with the passage of time, would constitute an Event of Default; and (b) any change of circumstances that would cause any of the representations and warranties contained in Article 7 ("Representations and Warranties") herein to be false or misleading at any time during the term of this Agreement.
- **5.4 Financial Statements.** Upon request, Grantee shall deliver to City an unaudited balance sheet and the related statement of income and cash flows for the most recent Fiscal Year, all in reasonable detail acceptable to City, certified by an appropriate financial officer of Grantee as accurately presenting the financial position of Grantee. If requested by City, Grantee shall also deliver to City, no later than one hundred twenty (120) days following the end of any Fiscal Year, an audited balance sheet and the related statement of income and cash flows for such Fiscal Year, certified by a reputable accounting firm as accurately presenting the financial position of Grantee.
- **5.5 Books and Records.** Grantee shall establish and maintain accurate files and records of all aspects of the Grant Proposal and the matters funded in whole or in part with Grant Funds during the term of this Agreement. Without limiting the scope of the foregoing, Grantee shall establish and maintain accurate financial books and accounting records relating to the Grant Funds received and expended under this Agreement, together with all invoices, documents, payrolls, time records and other data related to the matters covered by this Agreement, whether funded in whole or in part with Grant Funds. Grantee shall maintain all of the files, records, books, invoices, documents, payrolls and other data required to be maintained under this Section in a readily accessible location and condition for a period of not less than five (5) years after final payment under this Agreement or until any final audit has been fully completed, whichever is later.
- **5.6 Inspection and Audit.** Grantee shall make available to City, its employees and authorized representatives, during regular business hours all of the files, records, books, invoices, documents, payrolls and other data required to be established and maintained by Grantee under Section 5.5 ("Books and Records") herein. Grantee shall permit City, its employees and authorized representatives to inspect, audit, examine and make excerpts and transcripts from any of the foregoing. The rights of City pursuant to this Section shall remain in effect so long as Grantee has the obligation to maintain such files, records, books, invoices, documents, payrolls and other data under this Article 5.
- **5.7 Ownership of Results.** As provided for in the Lease, the City is and shall remain the owner of the Premise that is the subject of the Lease and the subject of the Grant Proposal under this Agreement, including any and all improvements made to the Premise, in accordance with the Lease including without limitation Section 11.1 ("Ownership of Improvements") therein.

ARTICLE 6 TAXES

6.1 Grantee to Pay All Taxes. Grantee shall pay to the appropriate governmental authority, as and when due, any and all taxes, fees, assessments or other governmental charges, including possessory

interest taxes and California sales and use taxes, levied upon or in connection with this Agreement, the Grant Proposal, the Grant Funds or any of the activities contemplated by this Agreement.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES

Grantee represents and warrants each of the following as of the date of this Agreement and at all times throughout the term of this Agreement:

- **7.1 Organization; Authorization**. Grantee is a non-profit tax-exempt 501(c)(3) organization. Grantee's Board of Directors has authorized the implementation of the Grant Proposal.
- **7.2 Location**. Grantee's operations, offices and headquarters are located at the address for notices set forth in Article 13 ("Notices") herein. All aspects of the Grant Proposal will be implemented at the geographic location(s) specified in the Grant Proposal.
- **7.3 No Misstatements.** No document furnished or to be furnished by Grantee to City in connection with the Grant Proposal, this Agreement, any Funding Request or any other document relating to any of the foregoing, contains or will contain any untrue statement of material fact or omits, or will omit, a material fact necessary to make the statements contained therein accurate or not misleading, under the circumstances under which any such statement shall have been made.
- **7.4** Conflict of Interest. In executing this Agreement, Grantee acknowledges that it is familiar with applicable conflict-of-interest provisions of the Palo Alto Municipal Code and the California Government Code, and certifies that it does not know of any facts which constitute a violation of said laws and agrees that it will immediately notify the City if it becomes aware of any such facts during the term of this Agreement.

ARTICLE 8 INDEMNIFICATION AND INSURANCE

- **8.1 Indemnification**. The indemnification and hold harmless requirements detailed in Section 12 ("Hold Harmless/ Indemnification") of the Lease are hereby incorporated into this Agreement as the insurance requirements applicable to this Agreement.
- **8.2 Insurance.** The insurance requirements detailed in Section 20 ("Insurance") of the Lease, and in Exhibit D ("Standard Insurance Requirements") of the Lease, are hereby incorporated into this Agreement as the insurance requirements applicable to this Agreement.

ARTICLE 9 DEFAULT AND REMEDIES

9.1 Default; Remedies

(a) **Default.** Grantee shall be in default if Grantee: (a) fails or refuses to perform or observe any term, covenant or condition contained in this Agreement, and such default continues for a period of ten days after written notice thereof from City to Grantee.; (b) files or is the subject of a petition for bankruptcy or insolvency; or, (c) has a court-ordered receiver or trustee appointed with respect to

Grantee's assets. Each of the preceding shall constitute an event of default ("Event of Default") under this Agreement.

(b) **Remedies.** On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

ARTICLE 10 PUBLIC RECORDS

10.1 Public Records. Grantee acknowledges that this Agreement is, and that other records related hereto may be, subject to the California Public Records Act (California Government Code §6250 et. seq.), and other state and local public records laws.

ARTICLE 11 ASSIGNMENT AND SUBCONTRACTING

- 11.1 No Assignment by Grantee. Except as otherwise expressly provided for in this Agreement, Grantee shall not, either directly or indirectly, assign, transfer, hypothecate, subcontract or delegate all or any portion of this Agreement or any rights, duties or obligations of Grantee hereunder without the prior written consent of City. This Agreement shall not, nor shall any interest herein, be assignable as to the interest of Grantee involuntarily or by operation of law without the prior written consent of City. A consent to one assignment will not be deemed to be a consent to any subsequent assignment. Any assignment made without the approval of City will be void and without effect.
- **11.2 Agreement Made in Violation of this Article**. Any agreement made in violation of Section 11.1 ("No Assignment by Grantee") herein shall confer no rights on any person or entity and shall automatically be null and void.
- **11.3 Subcontracting**. Grantee shall have the right to subcontract on the terms set forth in this Section. Upon request, at any time during the term of this Agreement, Grantee shall provide to City a current list of any Grantee subcontractors providing goods or services under this Agreement.
- (a) **Limitations**. Grantee may subcontract for the provision of services under this Agreement without the prior consent of City; provided, however, that Grantee shall not thereby be relieved from any liability or obligation under this Agreement and, as between City and Grantee, Grantee shall be responsible for the acts, defaults and omissions of any subgrantee/subcontractor or its agents or employees as fully as if they were the acts, defaults or omissions of Grantee. Grantee shall ensure that its subgrantees/subcontractors comply with all of the terms of this Agreement, insofar as they apply to the subcontracted portion of the Grant Proposal. All references herein to duties and obligations of Grantee shall be deemed to pertain also to all subgrantees/subcontractors to the extent applicable. A default by any subgrantee/subcontractor shall be deemed to be an Event of Default hereunder. Nothing contained in this Agreement shall create any contractual relationship between any subgrantee/subcontractor and City.

11.4 Grantee Retains Responsibility. Grantee shall in all events remain liable for the performance by any assignee or subgrantee/subcontractor of all of the covenants terms and conditions contained in this Agreement.

ARTICLE 12 INDEPENDENT CONTRACTOR STATUS

12.1 **Independent Contractor.** Grantee or any agent or employee of Grantee shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Grantee or any agent or employee of Grantee is liable for the acts and omissions of itself, its employees and its agents. Grantee shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Grantee's performing services and work, or any agent or employee of Grantee providing same. City or any agent or employee of City is liable for the acts and omissions of itself, its employees and its agents. City shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to City's activities under this Agreement, or any agent or employee of City's activities under this Agreement. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Grantee or between any agent or employee of one party and the other party. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Grantee's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Grantee performs work under this Agreement.

ARTICLE 13 NOTICES

13.1 Requirements. Unless specified otherwise herein: (a) all notices provided hereunder must be in writing and addressed to the attention of the party's primary point of contact as set forth below (or such alternative address as may be provided in writing as below); and (b) notice will be deemed given as follows: (i) on the date of receipt stated on the written receipt if sent by personal courier, overnight courier, U.S. mail with verification of receipt, or when received if sent by U.S. mail without verification of receipt; or (ii) on the date of receipt stated on the automated written receipt or electronic log if sent by facsimile or email. However, any notice of default must be sent by certified mail or via nationally-recognized overnight courier that guarantees next day delivery and provides a written receipt therefor.

If to the Agency or City:	City Manager's Office
	250 Hamilton Ave, 7th Floor
	Palo Alto, CA 94301
	Attn: Rob de Geus
	Facsimile:
	Email:

If to Grantee:	<u>Avenidas</u>
	4000 Middlefield Rd, #I-2
	Palo Alto, CA 94303
	Attn: Amy Andonian
	Facsimile:
	Fmail:

13.2 Change of Address. From time to time any party hereto may designate a new address for notices under this Article 13 ("Notices") herein by written notice to the other party provided pursuant to this Article.

ARTICLE 14 COMPLIANCE

- **14.1 Nondiscrimination.** As set forth in Section 2.30.510 of the Palo Alto Municipal Code, no discrimination will be made in the employment of persons under this Agreement because of the age, race, color, national origin, ancestry, religion, disability, sexual preference or gender of such person.
- **14.2** Compliance with Americans with Disabilities Act. Grantee shall implement the Grant Proposal in compliance with the Americans with Disabilities Act (ADA) and all other applicable federal, state and local disability accessibility legislation.
- **14.3. Prevailing Wages.** Grantee agrees that all construction work and/or maintenance work, as applicable, to be performed at and on the Premise pursuant to this Agreement is subject to applicable federal, state and local prevailing wage laws and regulations, and Grantee shall ensure that all such work is implemented, paid, documented and administered in compliance with such laws and regulations.
- **14.4 Compliance with Laws.** Each party shall keep itself fully informed of the Charter, codes, ordinances and regulations of the City, and of all state and federal laws and regulations in any manner applicable to the performance of this Agreement, and must at all times comply with such Charter, codes, ordinances, regulations and laws as they may be amended from time to time.

ARTICLE 15 MISCELLANEOUS

- **15.1 Non-Waiver of Rights.** The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.
- **15.2 Modification of Agreement**. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.
- **15.3 Agreement Made in California; Venue**. The formation, interpretation and performance of this Agreement shall be governed by California law without regard to its conflict of law provisions. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in Santa Clara County, California.

- **15.4 Paragraph Headings**. All paragraph headings are for convenience of reference only and shall not be considered in construing this Agreement.
- **15.5 Entire Agreement.** This Agreement and the Grant Proposal set forth the entire Agreement between the parties, and supersede all other oral or written provisions. If there is any conflict between the terms of this Agreement and the Grant Proposal, the terms of this Agreement shall govern. The following appendices are attached to and incorporated into this Agreement by reference as though fully set forth herein:

Appendix A, Form of Funding Request

Appendix B, Grant Proposal

Appendix C, Lease Agreement

- **15.6 Severability**. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.
- **15.7** Successors; No Third-Party Beneficiaries. Subject to the terms of Article 11 ("Assignment and Subcontracting") herein, the terms of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their successors and assigns. Nothing in this Agreement, whether express or implied, shall be construed to give any person or entity (other than the parties hereto and their respective successors and assigns) any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions or provisions contained herein.
- **15.8 Survival of Terms**. The following provisions of this Agreement shall survive and continue following expiration or termination of this Agreement:

Section 5.4	Financial Statements.	Article 8	Indemnification and Insurance.
Section 5.5	Books and Records.	Section 11.4	Grantee Retains Responsibility.
Section 5.6	Inspection and Audit.	Section 15.8	Survival of Terms.
Section 5.7	Ownership of Results.	Section 15.9	Further Assurances.
Article 6	Taxes.	Section 15.10	Dispute Resolution Procedure.

- **15.9 Further Assurances**. From and after the date of this Agreement, each party agrees to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and usual to complete the transactions contemplated by this Agreement and/or to carry out the purpose of this Agreement in accordance with this Agreement.
- **15.10 Dispute Resolution**. Prior to resort to legal remedy, the designated contact persons for this Agreement shall exercise reasonable efforts and negotiate in good faith to resolve any dispute that may arise concerning the performance by either party of its obligations under this Agreement; if the designated contact persons cannot resolve a dispute through such negotiations, they shall escalate the dispute to their respective executives, as applicable, who shall exercise reasonable efforts and negotiate in good faith to resolve the dispute.

- **15.11** Cooperative Drafting. This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.
- **15.12 Incorporation of Recitals**. The parties understand and agree that the Recitals set forth on page one of this Agreement are terms of this Agreement and are fully incorporated herein by this reference.

PARTY SIGNATURES TO THE AGREEMENT

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first specified herein.

CITY OF PALO ALTO	AVENIDAS
Approved by:	Approved by:
DocuSigned by: 3987298F82064DB	Docusigned by: Amy Anderian DAC451DFB2CA489
James Keene City Manager	Amy Andonian President and CEO
Approved as to Form:	
By: Docusigned by: Lassic Loluman 4065B94E51EAF8	
Cassie Coleman Assistant City Attorney	

Appendix A—Form of Funding Request

The form of the funding request from Grantee to City shall be a letter on Grantee letterhead, signed by an authorized representative of Grantee, stating that Grantee is ready to receive disbursal of the applicable installment of Grant Funds under Section 4.1 ("Amount of Grant Funds") herein.

Appendix B—Grant Proposal

Appendix B, Grant Proposal, is attached to this Agreement.

Appendix C—Lease Agreement

Appendix C, Lease Agreement, is attached to this Agreement.



April 15, 2015

Mr. Jim Keene, City Manager City of Palo Alto 250 Hamilton Avenue Palo Alto, CA 94301

Dear Jim,

When we met last month, you asked for more detail about how a \$5 million grant from the City of Palo Alto would be used, exactly, to update the City's building at 450 Bryant St. Our contractor, Vance Brown Builders, has just revised the project cost estimate based on the project design that the Board of Directors has approved. The current deferred maintenance costs - seismic upgrade and the replacement and upgrade of the mechanical, electrical and plumbing systems - is now estimated to be \$3.3 million. A breakdown of these costs is attached.

We have also updated the number of parking spaces that the project will require, and the corresponding cost of the in-lieu fee parking fee. The fee to meet the project's parking requirement will be \$1,980,000.

Taken together, these costs now exceed the \$5 million that we request:

Seismic upgrade and replacement and upgrade of MEPS	\$3,300,000
Parking requirement	1,980,000
Sanda of Arthur Carlot	\$5,280,000

In addition, we will be adding an ADA-compliant elevator as the building's current elevator does not meet current standards, at a cost of approximately \$250,000.

This project will be eligible for Transfer of Development Rights, TDR's, because it involves the rehabilitation of a Seismic Category II building as well as a Historic Category 2 building. The current building is 17,400 s/f resulting in a Combined Historic and Seismic Rehabilitation Bonus of 8,700 s/f. The City may elect to sell these TDR's to fund, in part, the requested \$5 million grant. However, if the City chooses to not sell the TDR's to fund this grant, Avenidas requests that at such time that the TDR's are sold, the proceeds be remitted to Avenidas to partially reimburse its substantial investment in the property.

We look forward to showing you the design of the expanded and modernized building and hope that you can join us on April 24th at 4:00 when our architect will present it. We are confident that the City will be proud of the new Avenidas Center at 450 Bryant Street and the standard that it will set as an innovative community center for older adults. A \$5 million investment by the City of Palo Alto will bring the building into the 21st century and assure its relevance for many years to come.

The City's commitment by June 30th will also help assure a successful Capital Campaign. We are learning that many of the prospective donors to this \$12 million Campaign expect that the City will make a meaningful investment in this project and its building. We would be able to leverage the City's commitment and accelerate our fundraising if the City makes a commitment soon.

We remain available to answer your questions. Thank you again for your consideration.

Sincerely,

Amy Andonian

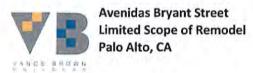
Bruce Heister

President & CEO Board Chair

Lisa B. Hendrickson

Capital Project Manager

Cc: Rob DeGeus, Director of Community Services



CONTRACTOR: Vance Brown

ARCHITECT: KRP
DATE: 4/7/15

DRAWINGS: 3/18/19

NO.	ITEM DESCRIPTION	QTY	UNIT	UNIT COST	SUBTOTAL
	Vertical Structure				
1		a musella			
	Seismic Upgrade at Existing - Concrete She		1.5	4 475 07	04.456
	Wall 1-6	64.00	LF	1,475.87	94,456
	Wall 1-7a, b, c	33.00	LF	1,582.88	52,235
	Wall 1-8	34.00	LF	1,576.38	53,597
	Wall 1-B, C.5	35.00	LF	1,570.25	54,959
	Wall 1-Ga, Gb	55.00	LF	1,494.51	82,198
	Wall 1-Da, Db	46.00	LF	1,520.45	69,941
	Wall 2-Da, Db	55.00	LF	507.21	27,897
2	Floor & Roof Structures				
	Seismic Upgrade at Existing Wood Framing				
	2nd Floor Framing	7,291.00	SF	15.00	109,365
	Roof Framing	6,189.00	SF	15.00	92,835
3	Exterior Restoration				
7	Restore Fixtures, Windows, Plaster	13,888.00	SF	35.00	486,080
4	Roofing				
	Clay Tile Roofing	4,980.80	SF	12.00	59,770
5	Plumbing Systems				
	Upgrade Plumbing System	16,382.00	SF	15.00	245,730
6	Heating, Ventilating & Air Conditioning				
	Upgrade HVAC System	16,382.00	SF	30.00	491,460
7	Electric Lighting, Power & Communications				
	Upgrade Lighting & Fire Alarm System	16,382.00	SF	35.00	573,370
8	Fire Protection Systems				
	Upgrade Fire Protection System	16,382.00	SF	3.75	61,433
Subt	otal				2,555,324
Gener	al Contractor Supervision, Safety, & Cleanup				238,412
Subt	otal				2,793,736
Contin	gency & Escalation				502,872
Total					3,296,608



HISTORIC REVIEW BOARD & ARCHITECTURAL REVIEW BOARD SUBMITTAL





445 North Whisman Road, Suite 200

Mountain View . C A 650.965.0700

450 BRYANT STREET
PALOALTO . CALIFORNIA

5.27.15 PROJECT NO. 129.021

HISTORIC REVIEW BOARD & ARCHITECTURAL REVIEW BOARD SUBMITTAL

PROJECT TEAM

PROJECT TEAM

 AVENIDAS
 Phone
 415. 421.1680

 450 BRYANT STREET
 Fax
 415 . 421 . 0127

 Palo Alto, CA 9431
 Contact
 LISA HENDRICKSON

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Contact KEVIN JONES ex.32

PAULA MADERA ex.25

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THE GUZZARDO PARTNERSHIP INC.

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Phone 415 . 433 . 4672
Fax 415 . 433 . 5003
Contact GARY LAYMON
JAMES WINSTEAD

CIVIL

 1420 Holly Avenue
 Phone
 650 . 964 . 9219

 Los Altos, CA 94024
 Fax
 650 . 964 . 9229

 Contact
 STEVAN NAKASHIMA

Avenidas



SCOPE OF WORK

THE PROJECT CONSISTS OF AN ADDITION TO AND RENOVATION OF AN EXISTING +/- 16,000 SF HISTORIC BUILDING BUILT IN 1927 LOCATED AT 450 BRYANT STREET AND OCCUPIED IN A LONG TERM LEASE BY AVENIDAS.

IT WILL INCLUDE DEMOLITION OF AN EXISTING 2,600 SF ADDITION BUILT IN 1978 AND A CONSTRUCTION A NEW ADDITION OF APPROXIMATELY 10,100 SF WITH A COMPLETE TENANT IMPROVEMENT AS SHOWN ON THESE PLANS.

PROJECT INFORMATION =

 PROJECT ADDRESS:
 450 BRYANT ST, PALO ALTO

 PROJECT SITE AREA:
 1.4 ACRES

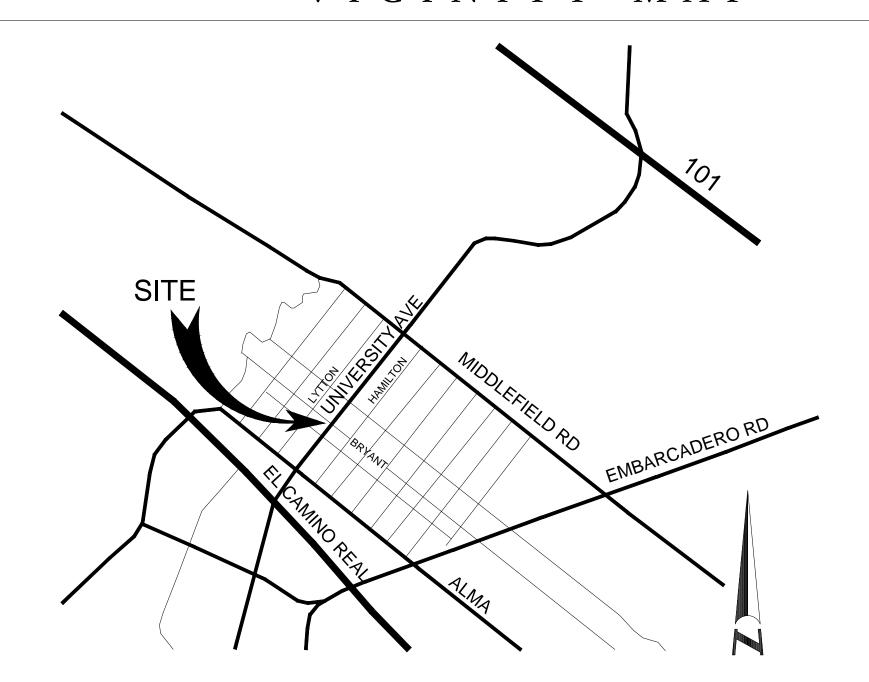
 A.P.N.:
 120-26-095

 EXISTING BUILDING AREA:
 +/- 16,000 SF

BUILDING AREA TO BE DEMOLISHED:.... +/- 2,600 SF

NEW ADDITION BUILDING AREA:..... 10,100 SF

VICINITY MAP



SHEET INDEX

GENERAL

G0.0 COVER SHEET

G1.0 EXISTING BUILDING DESCRIPTION

G2.0 PROJECT CONCEPTS AND GUIDELINES

G2.1 PROJECT CONCEPTS AND GUIDELINES
G3.0 OVERALL EXISTING PLAN

G4.0 OVERALL PROPOSED PLAN

ARCHITECTURE

A1.0 GENERAL VIEW

A2.0 PERSPECTIVES

4 0 4 DEDODEOTIVEO

A2.1 PERSPECTIVES

A2.2 INTERIOR PERSPECTIVES

A3.0 MATERIAL BOARD

A4.0 EXISTING BASEMENT FLOOR PLAN

A4.1 PROPOSED BASEMENT FLOOR PLAN

A4.2 EXISTING FIRST FLOOR PLAN

A4.3 PROPOSED FIRST FLOOR

A4.4 EXISTING SECOND FLOOR

A4.5 PROPOSED SECOND FLOOR

A4.6 PROPOSED THIRD FLOOR

A4.7 EXISTING AND PROPOSED ROOF PLAN

A5.0 EXISTING ELEVATIONS

A5.1 PROPOSED ELEVATIONS

A5.2 REAR BIRGE CLARK BUILDING ALTERATIONS PLAN

A5.3 REAR BIRGE CLARK BUILDING ALTERATIONS PLAN

A6.0 BUILDING SECTIONS

A6.1 BUILDING SECTIONS

LANDSCAPE

L1.0 CONCEPTUAL LANDSCAPE PLAN

L1.1 COURTYARD ENLARGEMENT

L1.2 ROOF DECK ENLARGEMENT

L1.3 DINING PATIO SKETCH

AVENIDAS 450 BRYANT STREET PALO ALTO

PALO ALTO, CALIFORNIA



KENNETH RODRIGUES & PARTNERS INC.
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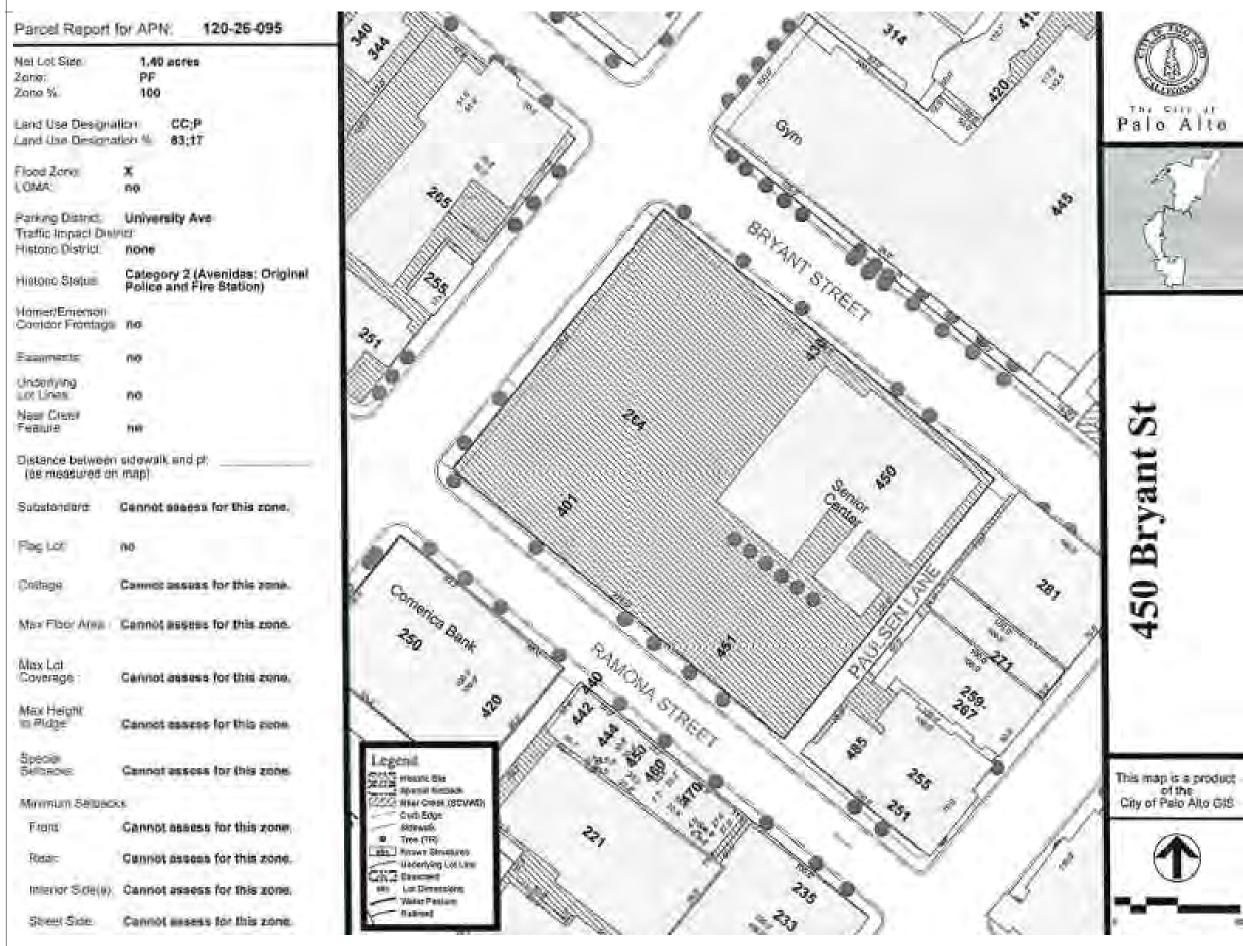
 PROJECT NO.
 129.021
 DATE
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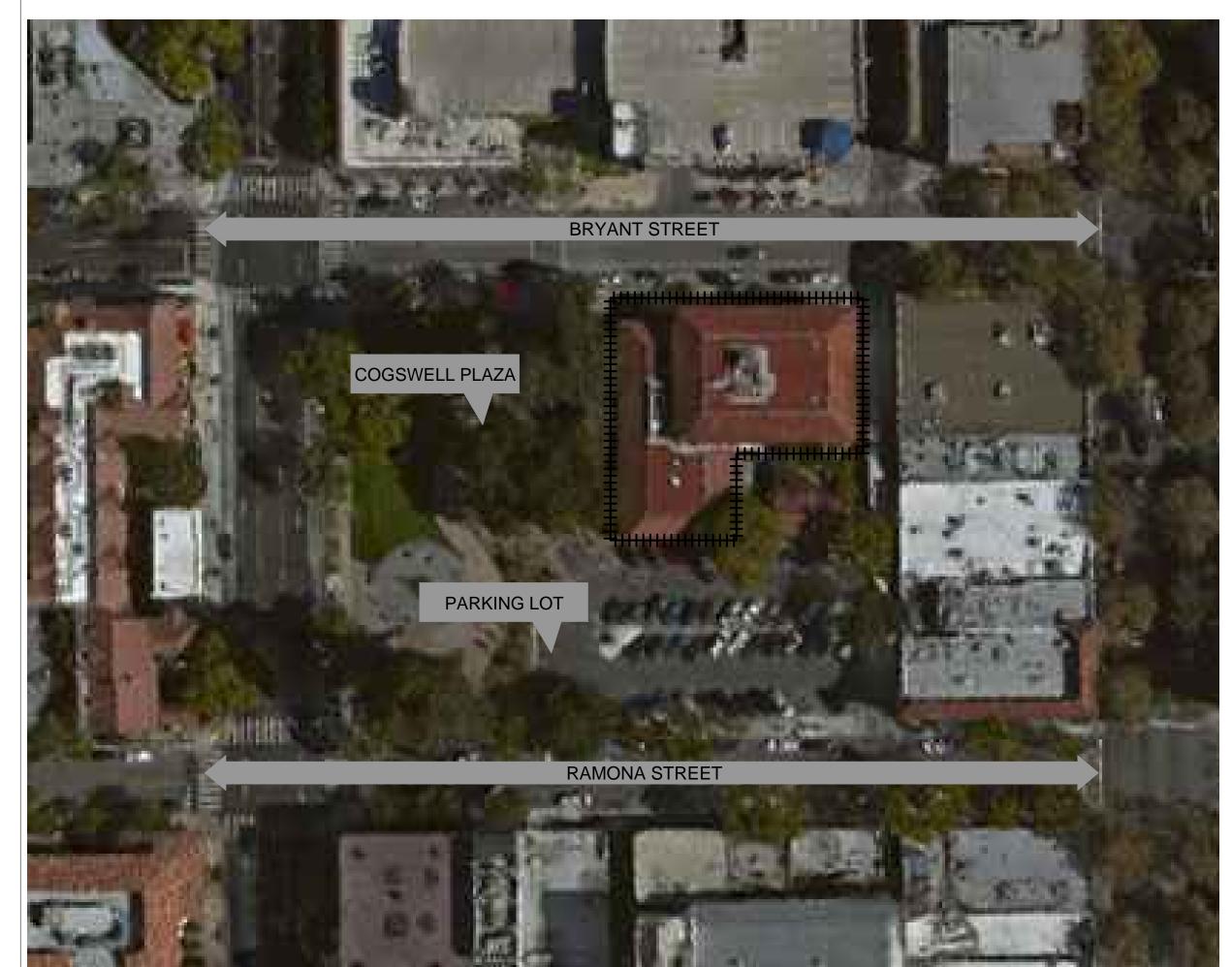
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 SCALE
 AS SHOWN

CHECKED BY

G0.0 COVER SHEET

BIRGE CLARK EXISTING BUILDING





PROJECT DATA

 PROJECT ADDRESS:
 450 BRYANT ST, PALO ALTO

 ASSESOR'S PARCEL NUMBER:
 129-26-095

 ZONE DISTRICT:
 PF

 NET LOT AREA:
 1.40 ACRES / 61150,5 sf

 ALLOWABLE FAR:
 1.0:1

 PROPOSED FAR:
 0.4 (existing + addition)

 ALLOWABLE LOT COVERAGE:
 30 %

 PROPOSED LOT COVERAGE:
 20 % (existing + addition)

SITE DESCRIPTION

The building at 450 Bryant Street is located in downtown Palo Alto. It lies between Cogswell Plaza to the west and an alleyway to the east. The surrounding neighborhood is generally commercial in nature.

BUILDING DESCRIPTION

The main building at 450 Bryant Street is constructed of reinforced concrete and wood framing with a stucco exterior finish. Stylistically, it is a Spanish Colonial Revival building. The original building, 'The Palo Alto Police and Fire Building' was designed by Birge Clark in 1926. The building, constructed in 1927, was thought to house the police department and jail, the fire department and offices, and the municipal court. These entities operated for nearly forty years. An addition at the north end of the building was designed by Clark's firm, Clark & Stromquist. The firm, designed a full renovation of the building interior and cafeteria addition in 1978 to accommodate the Senior Coordinating Council of Palo Alto, which moved in the next year.

CONSTRUCTION CHRONOLOGY

Date Permit Issued or Year Completed	Description of Work	Description of Work Contractor/ Architect	
1927	"Central Police and Fire House for the City of Palo Alto" completed.	Birge Clark, architect	
1950	One-story addition to Fire Station. (See details below.)		
1978	Rear cafeteria/dining room addition and full interior renovation for use as senior center. (See details below.)	Clark, Stromquist, & Sandstrom	
1993 wall 1" floor meeting room (now library); new partition		City of Palo Alto	
3/17/1995	Palo Alto Senior Center shop conversion to classroom – rear one-story building (originally a garage/carport) converted for classroom use: new doors and hardware,		
	new A/C unit and water heater; install interior sink, cabinets, and drinking fountain; new closet and furnace area partitions. (See details below.)		
4/6/1995	Structural Upgrades and renovations to senior center. (See details below.)	Baucentrum Architects	
3/2/2001 Remove and replace roof with 5-ply J.M. 5GNC terra cotta color; only where repair is needed.			
9/18/2001 Lobby & coffee room modifications, new ramp, new suspended ceiling, and coffee room upgrades.		Peterson Architects	
9/23/2003 Ductwork, hot water reheat piping, direct digital controls for fan coil units; also fire alarm & detection system installed.		Kinetics Mechanical Service, Inc.	
7/20/2004 Existing classroom – add dishwasher, disposal, water heater & refrigerator. Add upper cabinets & lighting (Int. remodel to existing classroom bldg.)		Oxley Works , David Oxley	
7/11/2007	Install automatic fire sprinkler system		
8/1/2007	8/1/2007 Install partition wall in basement, relocate electrical (to be used as: two computer labs)		
12/22/2007	Replacement of commercial restaurant equipment (like		
2013	HVAC Modifications – La Comida		

AVENIDAS 450 BRYANT STREET PALO ALTO

PALO ALTO, CALIFORNIA





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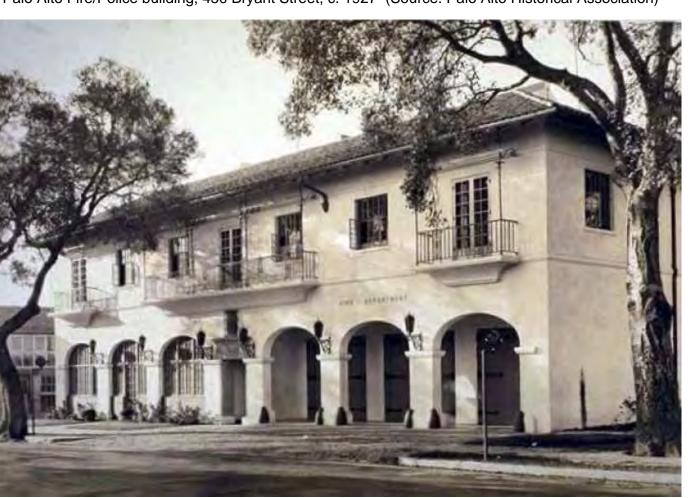
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1978 ADDITION

1950 ADDITION BUILDING

Palo Alto Fire/Police building, 450 Bryant Street, c. 1927 (Source: Palo Alto Historical Association)



Police-Fire Building, date unknown (Source: Palo Alto Historical Association)



REVISION
05.27.15 PRELIMINARY SUBMITTAL

PROJECT NO. 129.021 DATE 05.27.15

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G1.0

EXISTING BUILDING DESCRIPTION

PROPOSED BUILDING CONCEPTS

THE HISTORIC BIRGE CLARK BUILDING: A HISTORIC LEGACY TO BE HONORED

The building at 450 Bryant Street was designed by prominent architect Birge Clark, who was responsible for designing hundreds of buildings in Palo Alto and the surrounding area during the first half of the twentieth century. The main concept for the new addition will be to preserve the historic character of the existing construction.

The addition project would require minimal changes to the defining characteristics of the existing Birge Clark building and its site and environment.

The removal of historic materials or alteration of features and spaces that characterize the property will be avoided.

The new addition will not create a false sense of historic development. Even though the existing-proposed compatibility might be the main guideline, historic materials and features will not be copied.

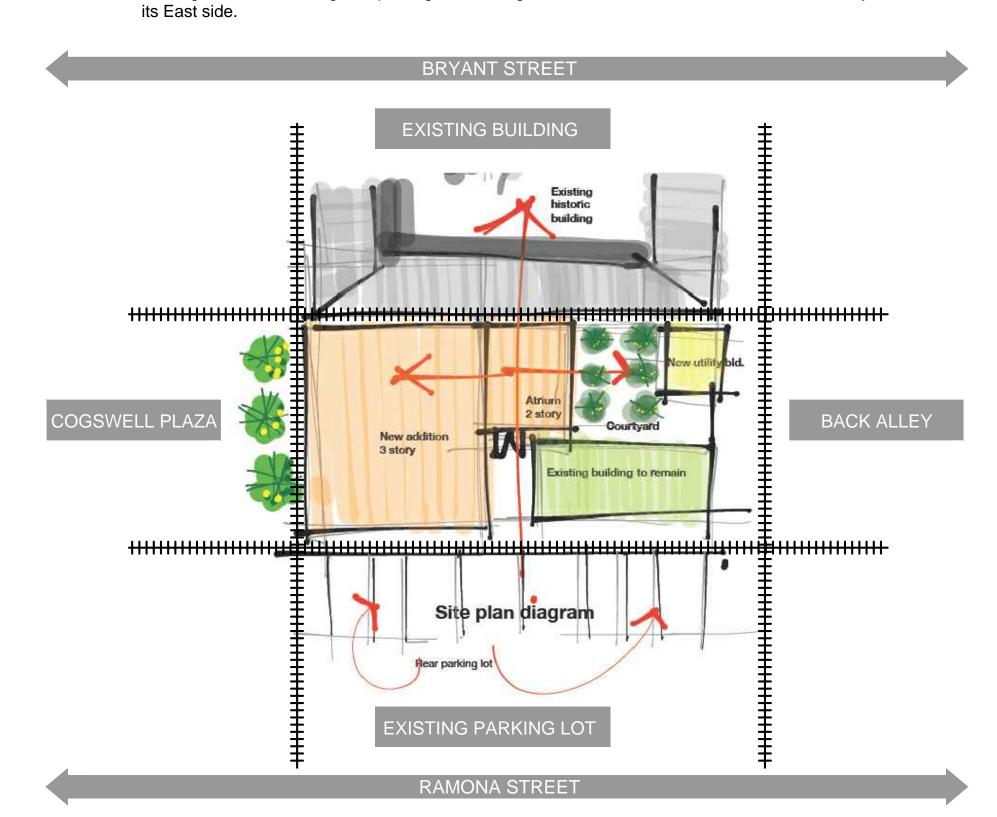
The new addition will be differentiated from the old construction and it will be compatible with the massing, size, scale and architectural features.

To protect the essential form and integrity of the historic property and its environment >>

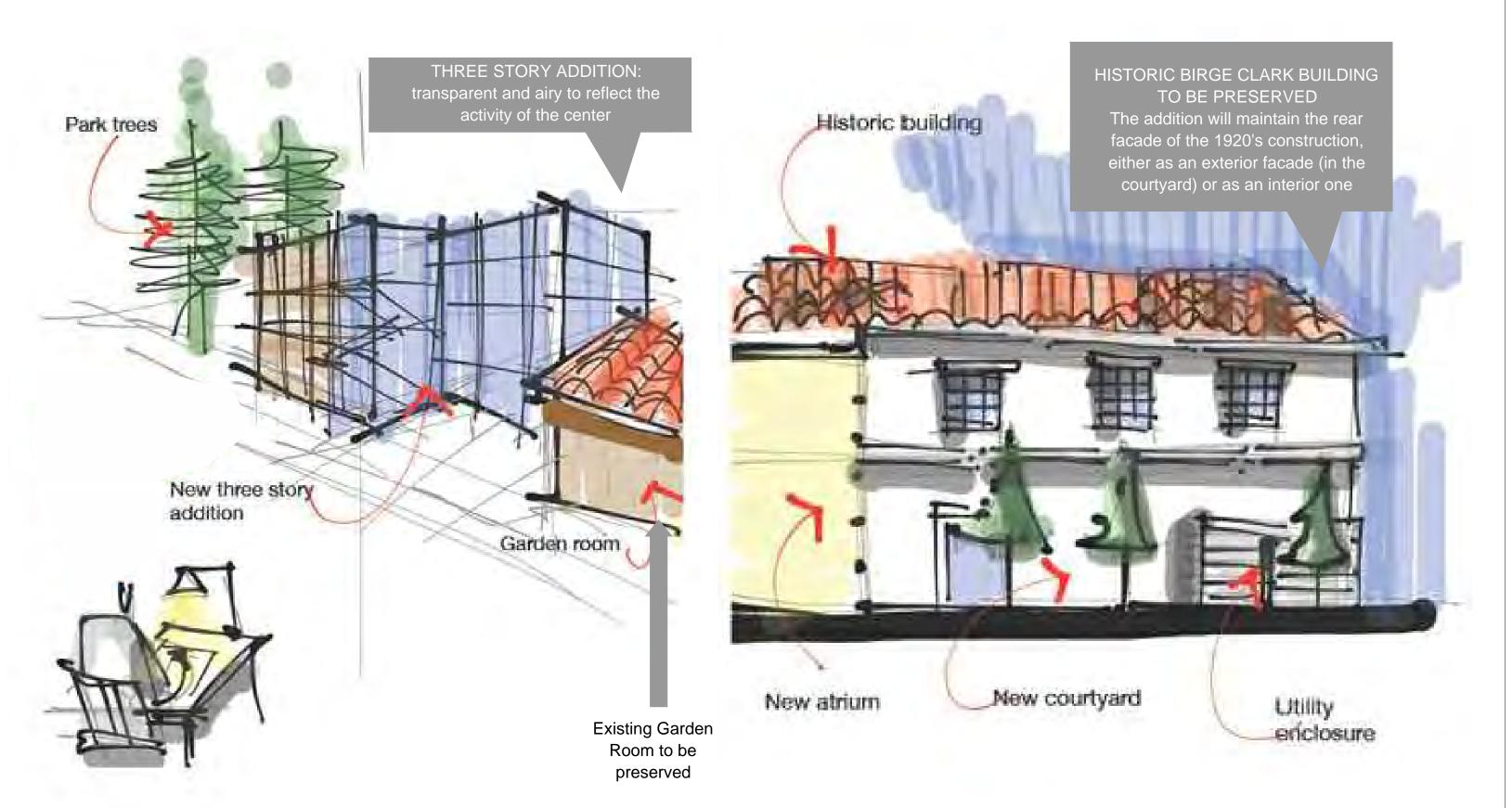
- >> The addition sits in the rear facade of the existing building. From Bryant Street, which represents the main side of the building the addition will be barely noticed.
- >> The new construction requires the demolition of just one part of the existing 1970's addition.
- >> The original 1920 Birge Clark building will be preserved. Its rear facade will be minimally altered and will be seen from the interior of the new construction.
- >> The Shed addition will remain in order to maintain the original composition of the parcel.
- >> All the heights of the new building will try to match the existing ones in the Birge Clark building.

SITE CONSTRAINTS

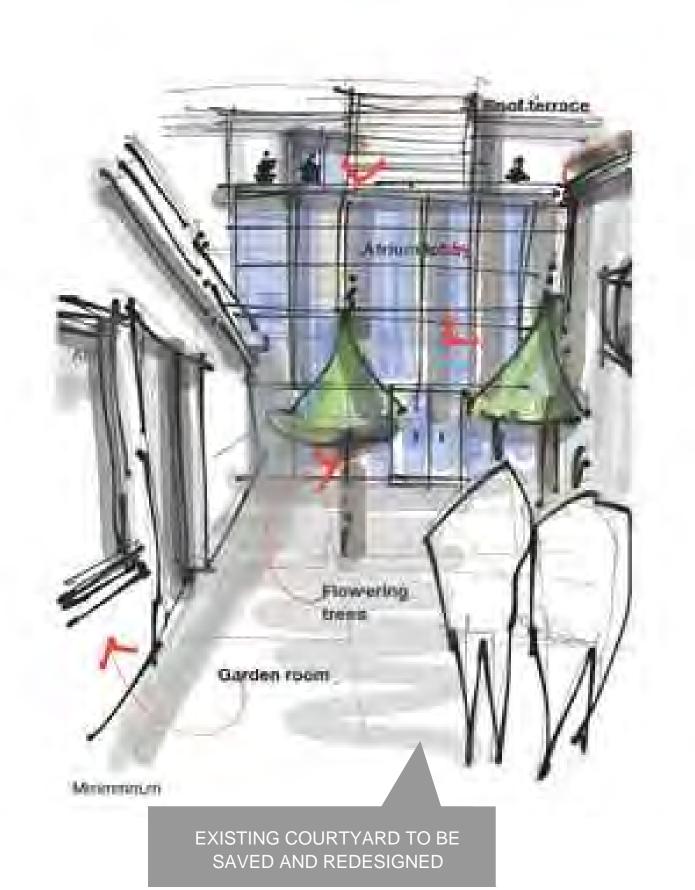
The new addition is located adjacent to the existing Birge Clark building and landlocked by three existing limits: the existing rear parking lot, the Cogswell Plaza in its West side and the back alley in



THREE STORY ADDITION ADJACENT TO THE COGSWELL PLAZA



THE NEW ADDITION ORIENTS TO THE PARK AND MAINTAINS THE EXISTING COURTYARD





AVENIDAS 450 BRYANT STREET

PALO ALTO

PALO ALTO, CALIFORNIA





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PROJECT CONCEPTS
AND GUIDELINES

NEW ADDITION SPATIAL CONFIGURATION

PROPOSED PROJECT DESCRIPTION

Avenidas operates out of the existing historic building at 450 Bryant Street in downtown Palo Alto. The building was built in 1927 as the City of Palo Alto Police and Fire Station. The building was designed by Palo Alto architect Birge Clarke. Avenidas modified and renovated the building in 1977-1978 when its occupancy of the building began. Over the past six years, Avenidas has been exploring how to continue to provide the highest level of services to the community and accommodate the growing demand at the existing location. The senior population is large and growing rapidly. The 55+ segment of Palo Alto's population grew 25% between 2000 and 2010 and today represents almost one-third of the total population of the city. As indicated in the City of Palo Alto's Comprehensive Plan, Avenidas (formerly the Senior Coordinating Council) is the sole provider of senior services on behalf of the City of Palo Alto. Consistent with the Comprehensive Plan goals for community services, Avenidas must evolve and adapt to the changing needs of the aging population.

Meeting these needs starts with our programs and extends into our physical infrastructure. The expansion and remodeling of our facilities is fundamental to our abilities to continue to provide the highest level of service to the Palo Alto community.

This expansion and remodeling also addresses Community Services goals of the City's Comprehensive Plan: "Goal C-4: "Attractive, Well-maintained Community Facilities That Serve Palo Alto Residents... Reinvest in aging facilities to improve their usefulness and appearance. Avoid deferred maintenance of City infrastructure. (Policy C-24)" City of Palo Alto Comprehensive Plan, Community Services and Facilities, page C-16.

The proposed existing building and addition is +/-22,700 square feet. The first level is the largest at +/-11,100 square feet and includes the addition of an atrium lobby, main lobby, reception and classrooms and multi-purpose rooms.

The second floor is +/-7,500 square feet and includes multipurpose rooms, meeting rooms, classrooms and administrative areas.

A third floor in the new wing will be +/-2,500 square feet and will include a fitness room and small meeting room.

The circa 1950 shed at the rear (the "Garden Room" or "Villages Offices") will be renovated to house the staff and members of Avenidas Village.

The basement below the original building will become a theater/small auditorium.

The basement below the original building will become a theater/small auditorium.

PARKING

Part of the project's challenge is the limited space available for development based on Avenidas' leasehold area and the adjacent park and parking lot. The proposed addition is to remain within the current leasehold boundary. With no land on which to build parking spaces, it is our plan to meet the project's parking requirement of 31 spaces by paying an in-lieu fee to the Downtown Parking Assessment District. It may, however, be possible for the City to obtain an exception to this parking requirement, under direction from the City's Comprehensive Plan which states:

Policy L-56: To reinforce the scale and character of University Avenue/Downtown, promote the preservation of significant historic buildings. Older buildings may be at a disadvantage because of the expense and specialized skills needed to adapt them for contemporary use. This is particularly true where seismic strengthening is needed or where the site cannot accommodate current parking requirements. In some cases, the use for which the building was designed is not even allowed by current zoning. The following programs are intended to help overcome these obstacles and enable older buildings to be more competitive with new development.

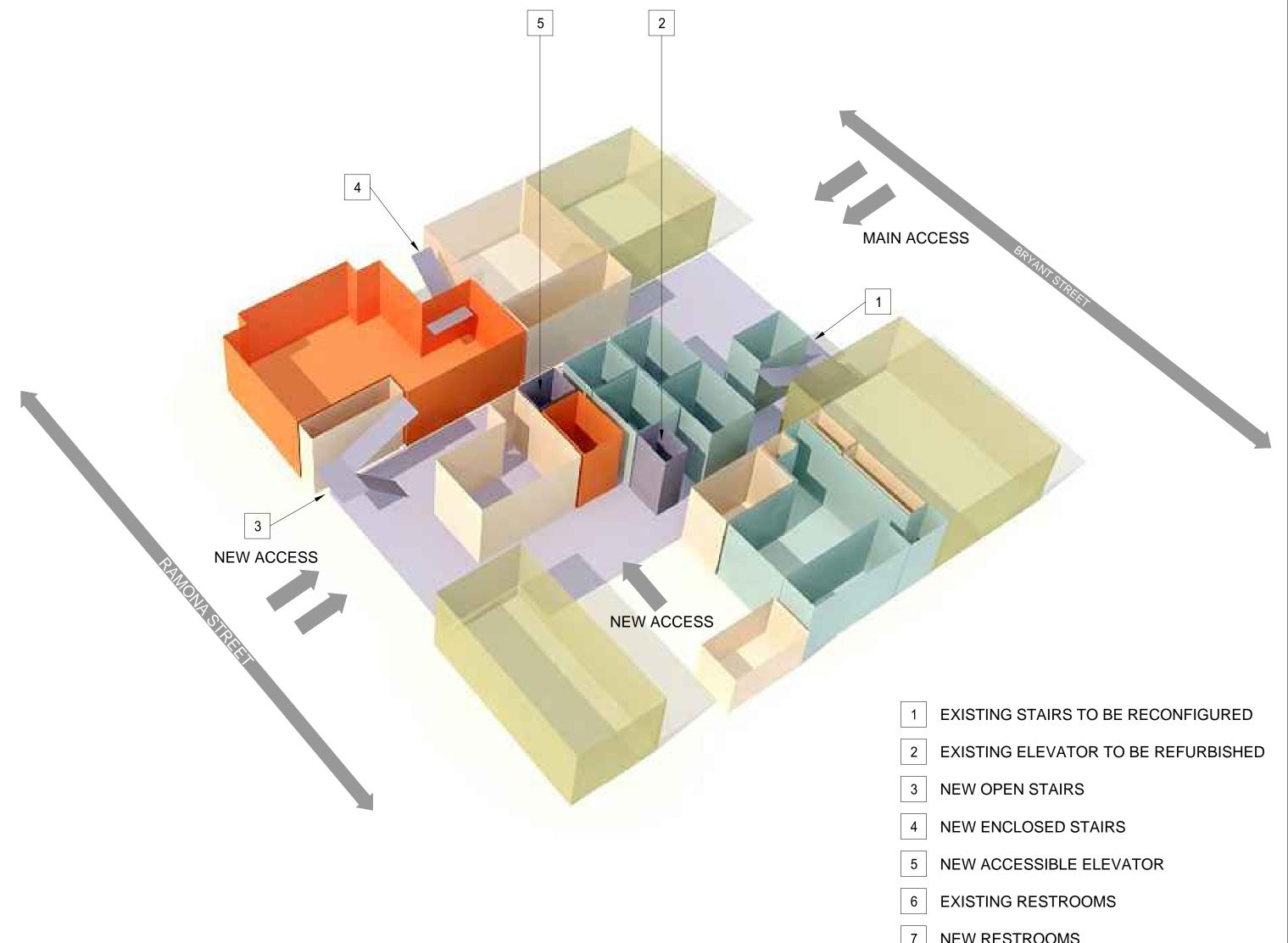
Allow parking exceptions for historic buildings to encourage rehabilitation. Require design review findings that the historic integrity of the building exterior will be maintained. City of Palo Alto Comprehensive Plan, 2007, Land Use and Community Design, pages L39-40

HISTORIC PRESERVATION

The City of Palo Alto's Downtown design guideline recommends that a sense of history be preserved and historic structures be emphasized. The architectural concept of the addition is to significantly maintain the architectural features of the existing historic building by adding an addition at the back of the building, replacing the 1978 dining room with a three story wing and a two story atrium. The design aesthetic of the new addition is modern with the building composed of aluminum, glass and stone elements. The scale and massing of the addition is such that it is in proportion to the existing historic building. The existing rear wall of the historic building will become a prominent feature of the proposed new wing. The main building entry will remain along Bryant Street. No exterior building modifications are proposed to the other three sides of the existing building. Participants will enter into a main lobby/reception that will look out into the remaining courtyard. With the remodeling of the interior space, the circulation and way finding throughout the facility will be improved. No historic interior features remain after previous interior renovations.

The renovated building will have less office space than it presently does. Except for a few staff who interact directly and daily with participants and guests, staff will be consolidated into part of the second floor in open space configured with workstations, a few private offices and shared huddle rooms. We do not expect that more staff will be required as a result of the building expansion.

Interior renovations are being designed to make the space feel open and inviting. We want visitors to be able to walk through the building and see what is going on and be enticed to join in. Small spaces will be combined into larger spaces. We also want pedestrians walking by on the Bryant Street sidewalk to be able to look in and see what's going on. Foundation landscape will be replaced with low-scale plantings and there will be larger and more active multi-purpose rooms flanking the front entrance.



AVENIDAS 450 BRYANT STREET PALO ALTO

PALO ALTO, CALIFORNIA



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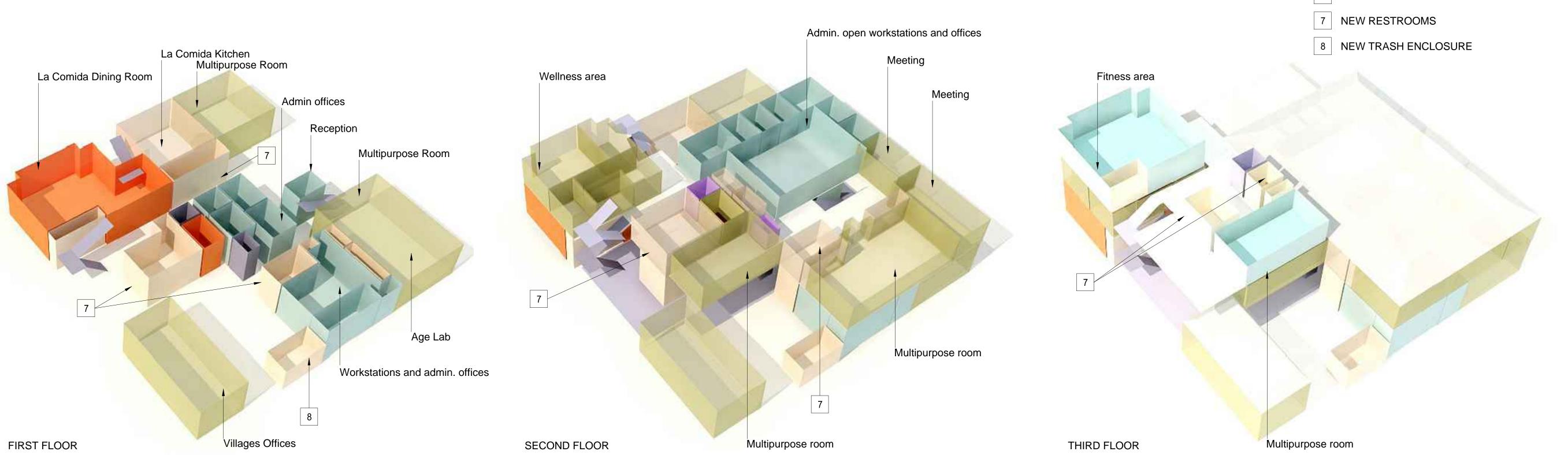
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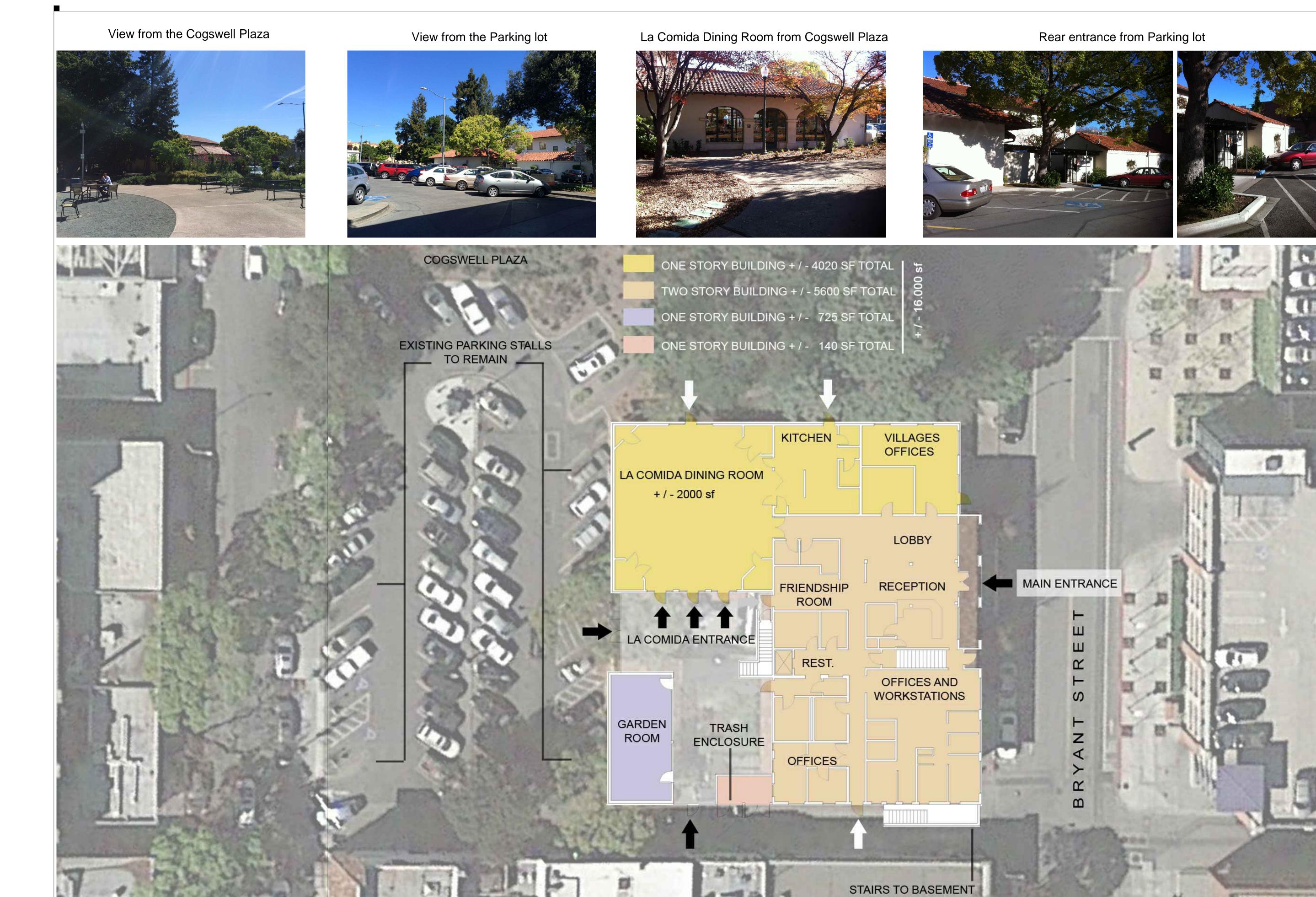
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PROJECT CONCEPTS
AND GUIDELINES





AVENIDAS 450 BRYANT STREET

PALO ALTO

PALO ALTO, CALIFORNIA



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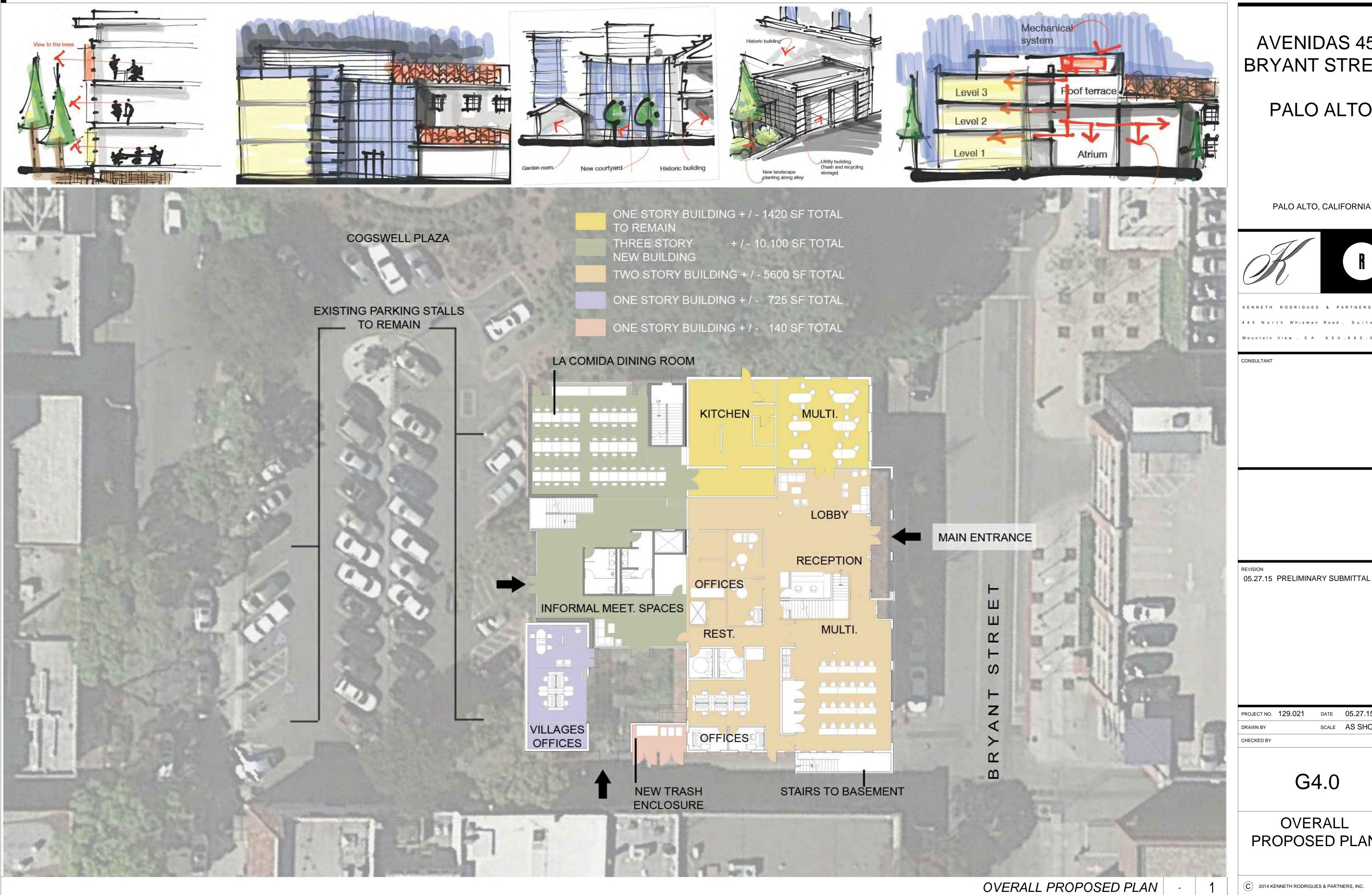
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OVERALL EXISTING PLAN

C 2014 KENNETH RODRIGUES & PARTNERS, INC.

OVERALL EXISTING PLAN



AVENIDAS 450 BRYANT STREET

PALO ALTO

PALO ALTO, CALIFORNIA





KENNETH RODRIGUES & PARTNERS INC.

DATE 05.27.15 SCALE AS SHOWN

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OVERALL PROPOSED PLAN

BEFORE... (Existing view from Cogswell Plaza)



AFTER...Proposed view from Cogswell Plaza

AVENIDAS 450 BRYANT STREET PALO ALTO

PALO ALTO, CALIFORNIA





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GENERAL VIEW



GENERAL VIEW OF THE BUILDING FROM THE PARKING LOT

GENERAL VIEW OF THE DECK



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AVENIDAS 450

PALO ALTO

PALO ALTO, CALIFORNIA

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PERSPECTIVES



GENERAL VIEW OF THE BUILDING FROM THE PARKING LOT

BRYANT STREET PALO ALTO

AVENIDAS 450

PALO ALTO, CALIFORNIA





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PERSPECTIVES

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GENERAL VIEW OF THE REAR ELEVATION



BIRGE CLARK LEGACY AND DONORS WALL

- Lobby artwork feature with donor names and Avenidas history

- Abstract tree figure applied to glass panels

Palo Alto = tall tree, symbol of longevity and growth

- Donor names etched in glass

A PLACE

FOR VISUAL

HISTORY

- Visual history and Birge Clark legacy

The addition will house one architectural and symbolic key element: the core. It will work with a double function.

First of all, it will be the place for restrooms, mechanical shaft, and other servant spaces as well.

On the other hand, it will show in its two main walls the legacy of noted Architect Birge Clark and the big effort done by Avenidas' donors to make the project happen.



1 LA COMIDA DINING ROOM

2 MULTIPURPOSE ROOM



3 CORRIDOR AND INFORMAL MEETING AREAS



4 FITNESS ROOM



AVENIDAS 450 BRYANT STREET

PALO ALTO

PALO ALTO, CALIFORNIA





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INTERIOR PICTURES



SHEET KEYNOTES

- 1 SPANISH CLAY TILE ROOFING
- 2 STUCCO WALLS
- 3 MULTI-PANE STEEL CASEMENT WINDOW
- 4 HIGH- PERFORMANCE CLEAR GLASS
- 5 ALUMINUM FRAMES
- 6 STONE WALL
- 7 STEEL AND GLASS ENTRY CANOPY
- 8 CLIMBING PLANTS
- 9 MOTORIZED SHADE CONTROL SYSTEM TO PROVIDE WINDOW SHADING SOLUTIONS IN THE INTERIORS
- 10 ALUMINUM REVEALS



GLASS SYSTEM

BRYANT STREET PALO ALTO

AVENIDAS 450

PALO ALTO, CALIFORNIA





KENNETH RODRIGUES & PARTNERS INC.
445 North Whisman Road, Suite 200

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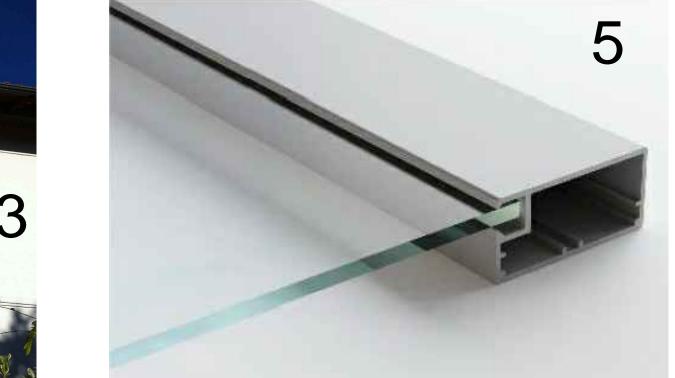
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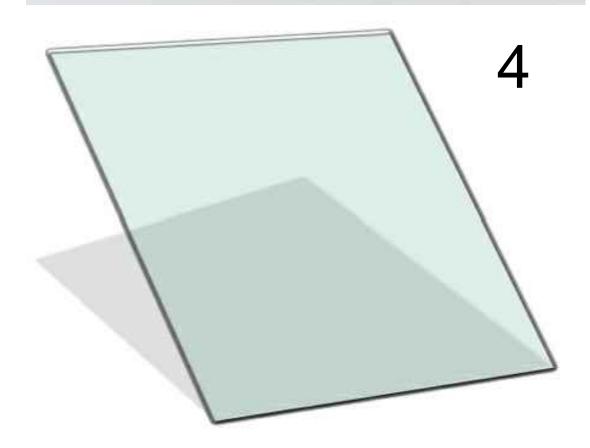
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MATERIAL BOARD











STORAGE ____STORAGE MAC LAB 28'-6" STORAGE _STORAGE 5 4 PC LAB BOILER 35'-9" 5 5

SHEET KEYNOTES

- 1 EXISTING ELEVATOR TO BASEMENT TO BE REFURBISHED
- 2 EXISTING STAIRS TO REMAIN
- 3 EXISTING EXTERIOR STAIRS TO REMAIN
- 4 EXISTING STRUCTURAL COLUMNS TO REMAIN
- 5 EXISTING DOOR TO REMAIN
- 6 EXISTING DOOR / WINDOW TO BE INFILLED
- 7 EXISTING STAIRS TO BE REMOVED
- 8 EXISTING WINDOWS TO REMAIN
- 9 EXISTING DOORS AND WINDOWS TO BE DEMOLISHED
- 10 EXISTING TRASH ROOM TO BE DEMOLISHED AND REBUILT
- 11 EXISTING GATES TO BE DEMOLISHED
- 13 NEW ENCLOSED STAIRS
- 15 NEW ELEVATOR
- 16 NEW EXTERIOR DOOR / WINDOW
- EXISTING COURTYARD TO BE REDESIGNED (SEE LANDSCAPE DRAWINGS)
- 18 NEW WINDOW SYSTEM AT EXISTING BUILDING
- 19 EXISTING TREE TO BE REMOVED
- 20 NEW TRASH ROOM
- 21 SEISMIC JOINT
- 22 NEW WINDOW SYSTEM
- 23 RESTROOMS AND SERVICES CORE
- 24 LIMESTONE WALL
- NEW INTERIOR DOOR / WINDOW IN EXISTING WALL
- 26 PLASTER WALL
- 27 CANOPY
- 28 SPANISH CLAY TILES
- 29 DECK AREA

AVENIDAS 450 BRYANT STREET

PALO ALTO

PALO ALTO, CALIFORNIA





KENNETH RODRIGUES & PARTNERS INC.

Mountain View . C A 6 5 0 . 9 6 5 . 0 7 0 0

CONSULTANT

05.27.15 PRELIMINARY SUBMITTAL

PROJECT NO. 129.021

DATE 05.27.15 SCALE AS SHOWN

CHECKED BY

A4.0

EXISTING BASEMENT FLOOR PLAN

STORAGE LA COMIDA STORAGE 28'-6" _JANITOR LOAN CLOSET _666,66. BOILER LECTURE 30'-2" 35'-9" 5 5

SHEET KEYNOTES

- 1 EXISTING ELEVATOR TO BASEMENT TO BE REFURBISHED
- 2 EXISTING STAIRS TO REMAIN
- 3 EXISTING EXTERIOR STAIRS TO REMAIN
- 4 EXISTING STRUCTURAL COLUMNS TO REMAIN
- 5 EXISTING DOOR TO REMAIN
- 6 EXISTING DOOR / WINDOW TO BE INFILLED
- 7 EXISTING STAIRS TO BE REMOVED
- 8 EXISTING WINDOWS TO REMAIN
- 9 EXISTING DOORS AND WINDOWS TO BE DEMOLISHED
- 10 EXISTING TRASH ROOM TO BE DEMOLISHED AND REBUILT
- 11 EXISTING GATES TO BE DEMOLISHED
- 12 NEW GATES
- 13 NEW ENCLOSED STAIRS
- 14 NEW STAIRS
- 15 NEW ELEVATOR
- 16 NEW EXTERIOR DOOR / WINDOW
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AVENIDAS 450 BRYANT STREET

PALO ALTO

PALO ALTO, CALIFORNIA





KENNETH RODRIGUES & PARTNERS INC.
445 North Whisman Road, Suite 200

Mountain View . C A 6 5 0 . 9 6 5 . 0 7 0 0

CONSULTANT

REVIS

05.27.15 PRELIMINARY SUBMITTAL

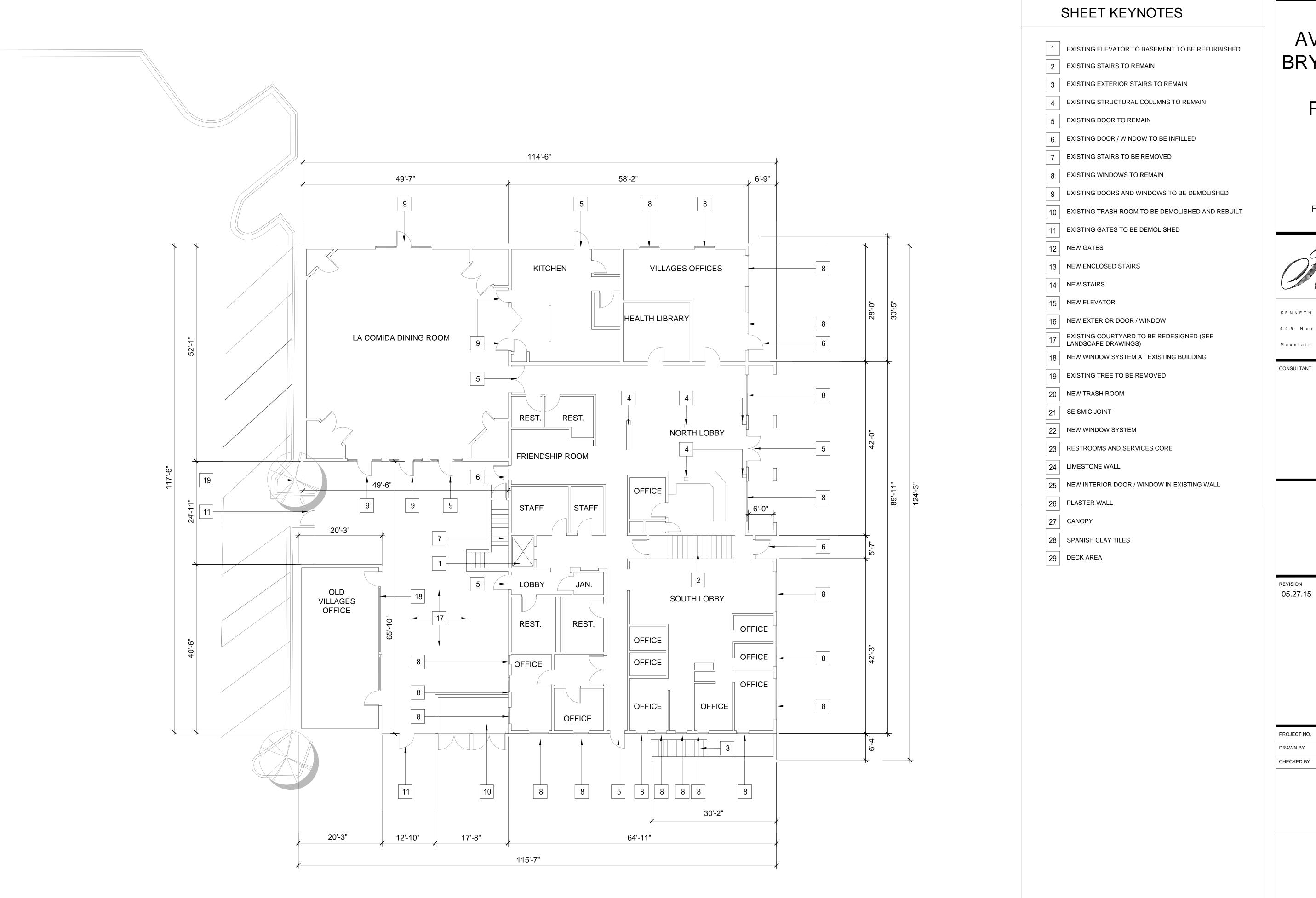
 PROJECT NO.
 129.021
 DATE
 05.27.15

 DRAWN BY
 SCALE
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CHECKED BY

A4.1

PROPOSED BASEMENT FLOOR PLAN



AVENIDAS 450 BRYANT STREET

PALO ALTO

PALO ALTO, CALIFORNIA





KENNETH RODRIGUES & PARTNERS INC.
445 North Whisman Road, Suite 200

Mountain View . C A 6 5 0 . 9 6 5 . 0 7 0 0

05.27.15 PRELIMINARY SUBMITTAL

 PROJECT NO.
 129.021
 DATE
 05.27.15

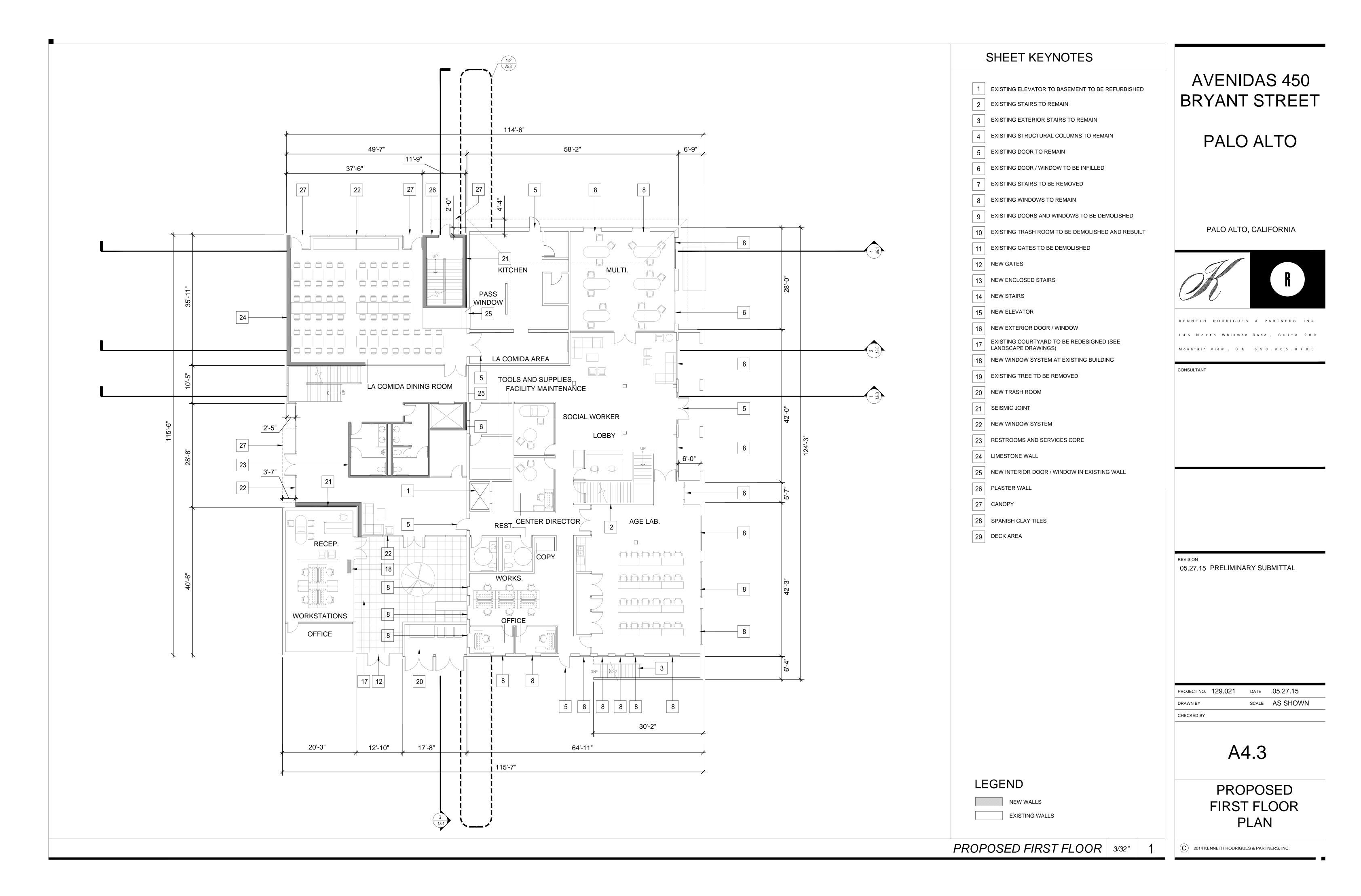
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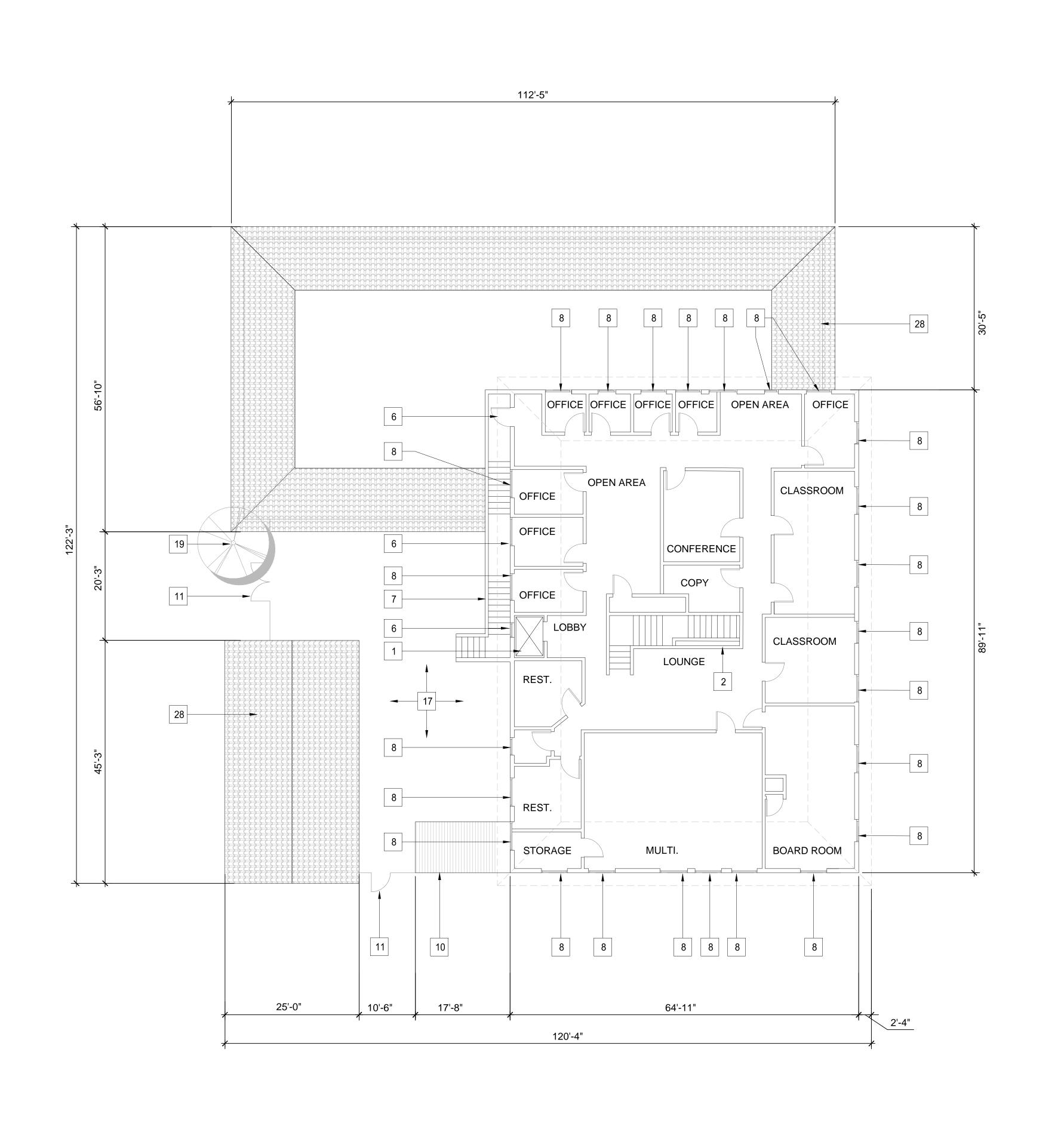
A4.2

EXISTING FIRST FLOOR PLAN

C 2014 KENNETH RODRIGUES & PARTNERS, INC.

EXISTING FIRST FLOOR 3/32"





SHEET KEYNOTES

- 1 EXISTING ELEVATOR TO BASEMENT TO BE REFURBISHED
- 2 EXISTING STAIRS TO REMAIN
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AVENIDAS 450 BRYANT STREET

PALO ALTO

PALO ALTO, CALIFORNIA





KENNETH RODRIGUES & PARTNERS INC.

Mountain View . C A 6 5 0 . 9 6 5 . 0 7 0 0

CONSULTANT

05.27.15 PRELIMINARY SUBMITTAL

DATE 05.27.15 PROJECT NO. 129.021 SCALE AS SHOWN

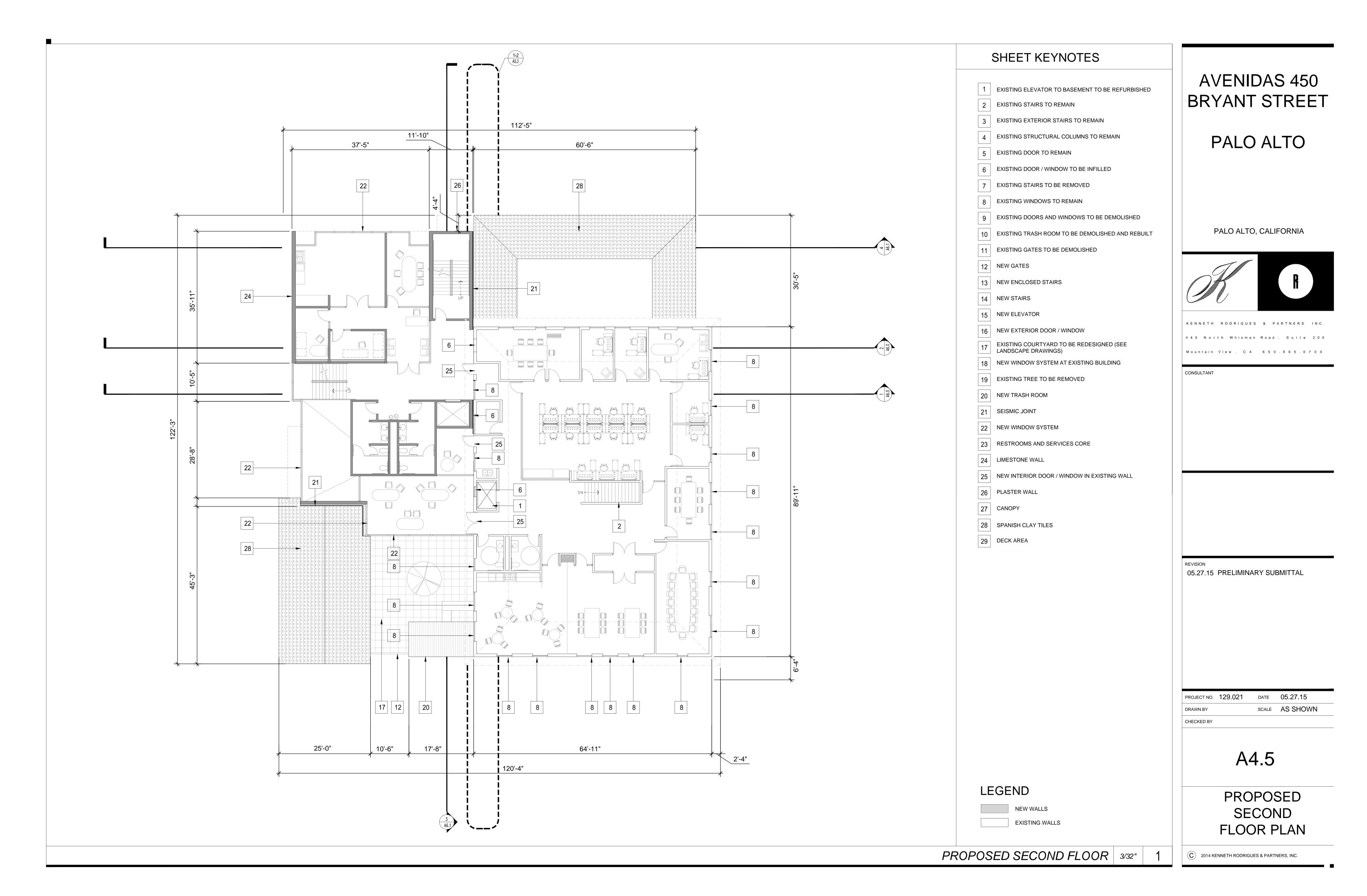
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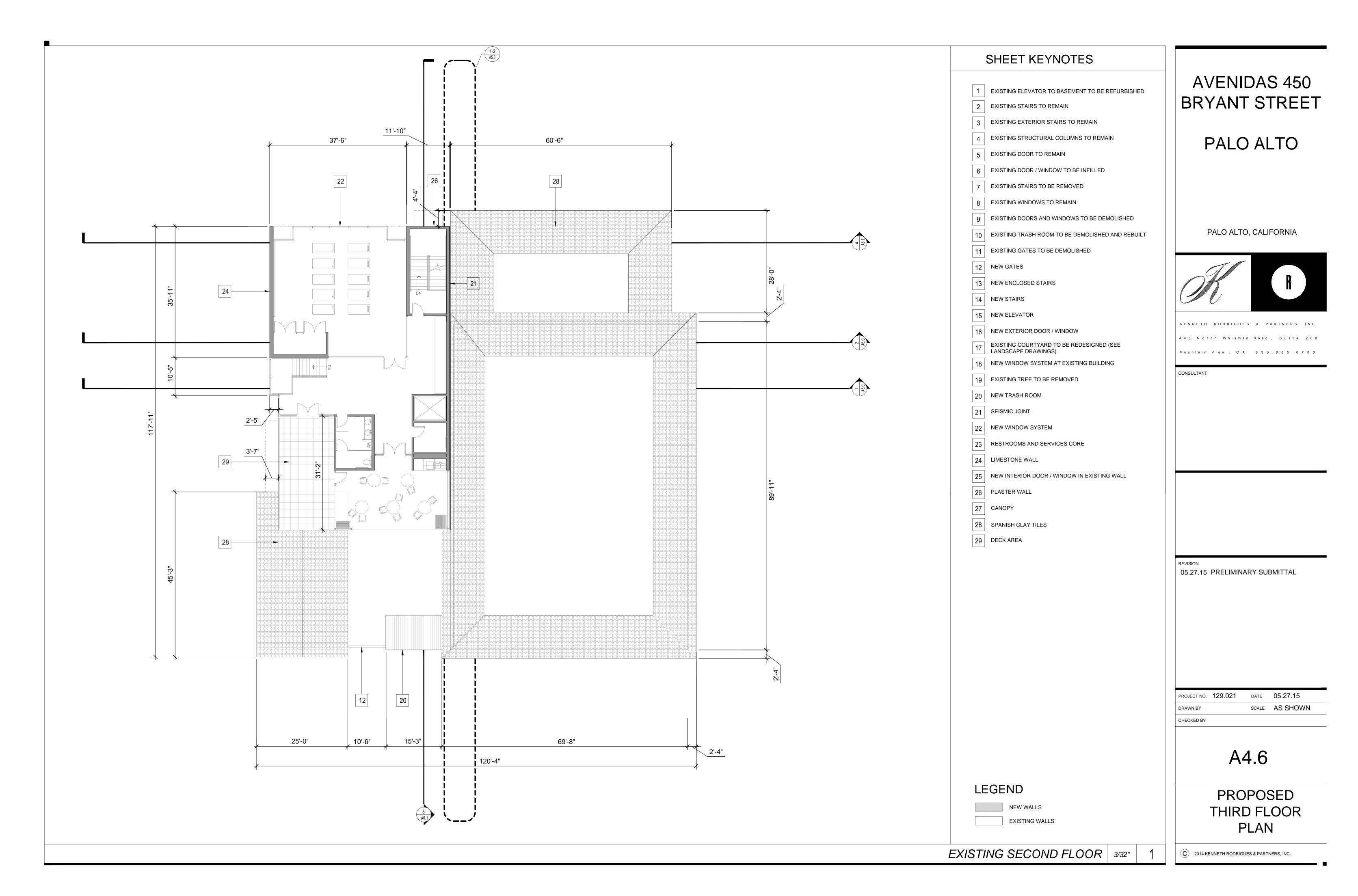
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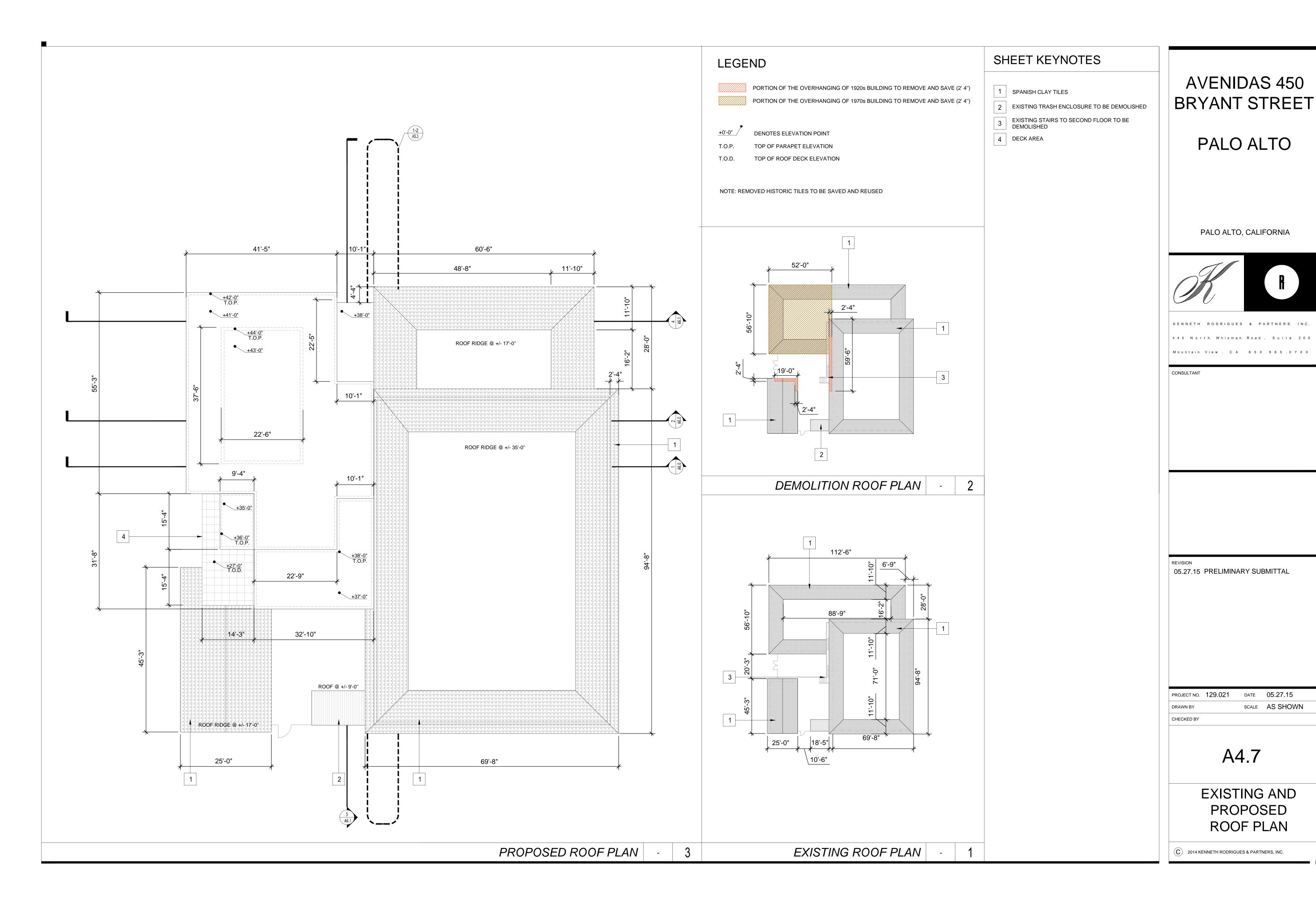
EXISTING SECOND FLOOR PLAN

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EXISTING SECOND FLOOR 3/32"









NORTHEAST ELEVATION (BRYANT STREET)

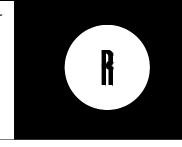






AVENIDAS 450 BRYANT STREET PALO ALTO

PALO ALTO, CALIFORNIA

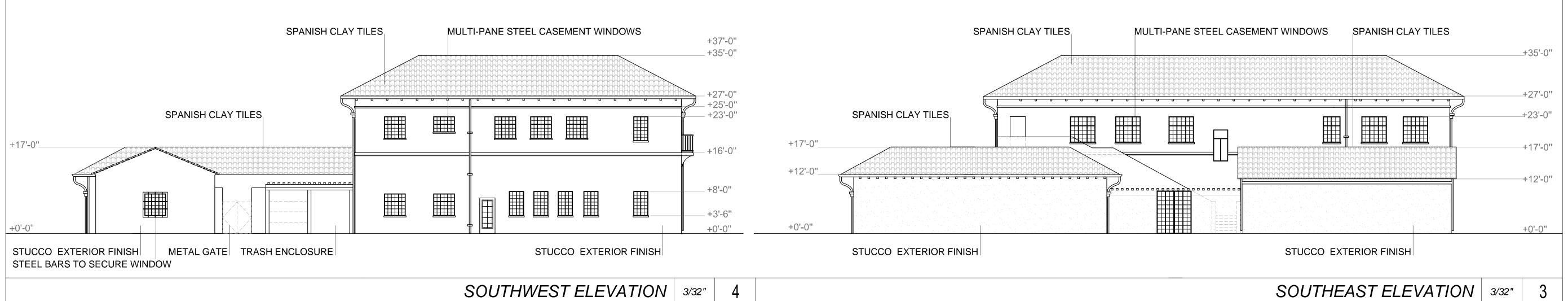


KENNETH RODRIGUES & PARTNERS INC. 445 North Whisman Road, Suite 200

CONSULTANT

SOUTHEAST ELEVATION (PARKING LOT)

SOUTHWEST ELEVATION (BACK ALLEY)



05.27.15 PRELIMINARY SUBMITTAL

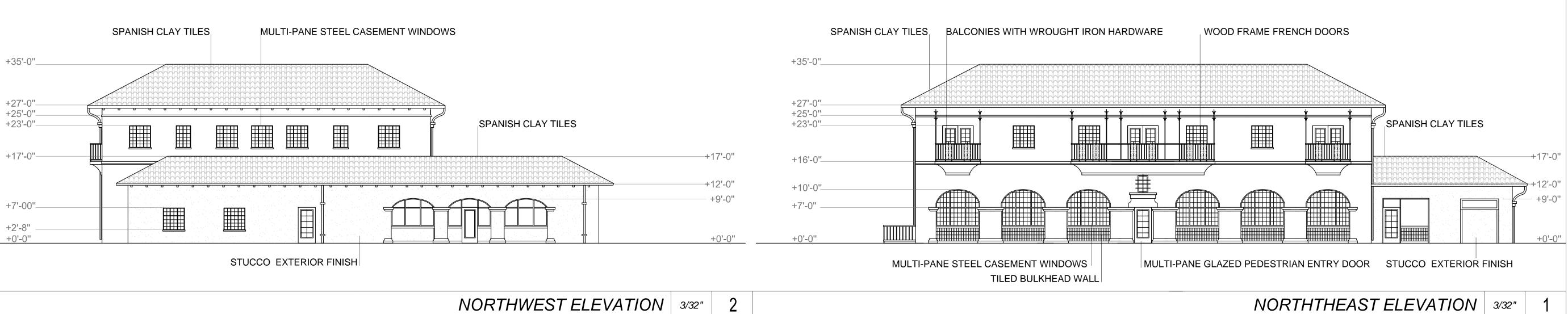
REVISION

PROJECT NO. 129.021 DATE 05.27.15 SCALE AS SHOWN CHECKED BY

A5.0

EXISTING ELEVATIONS

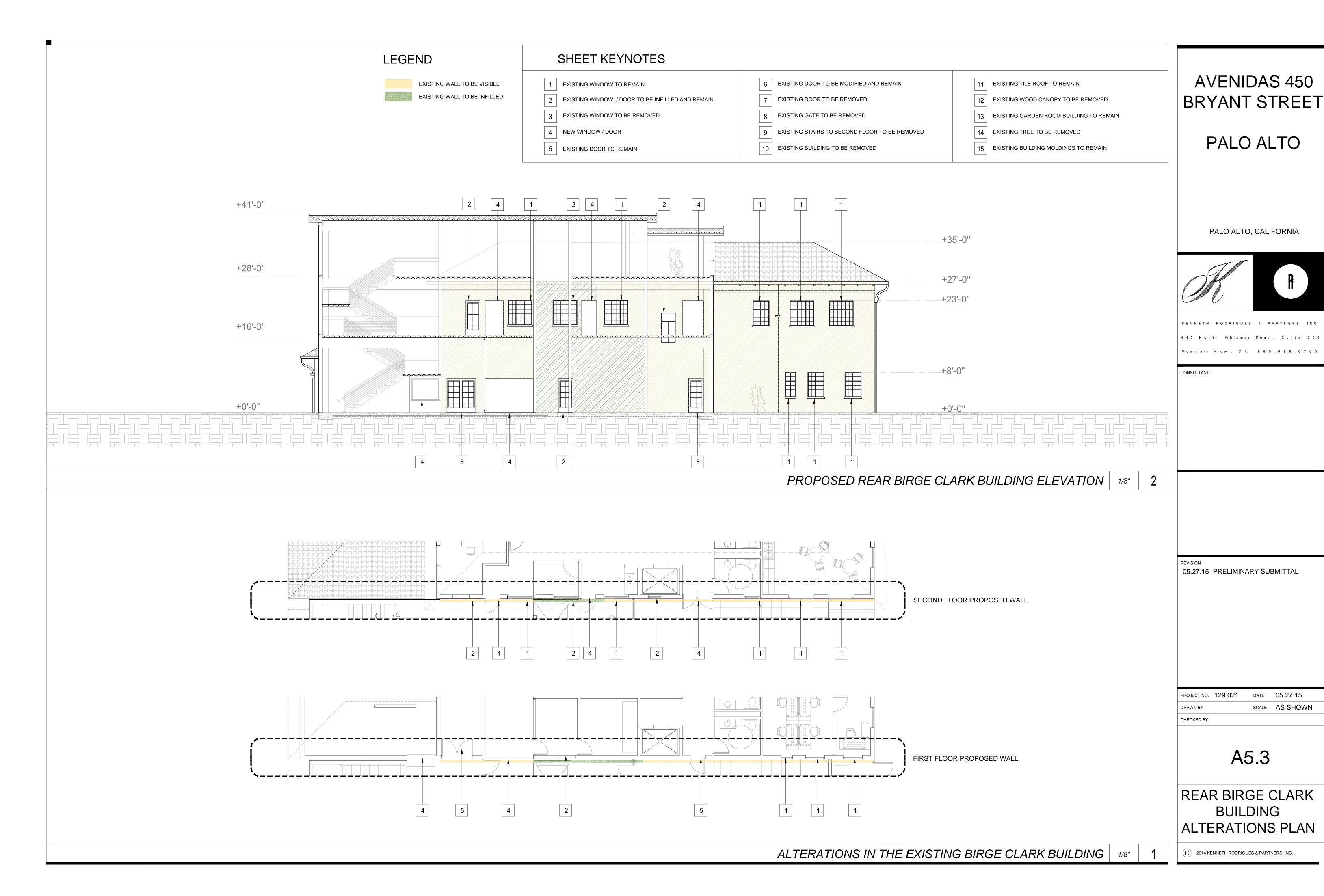
(C) 2014 KENNETH RODRIGUES & PARTNERS, INC.

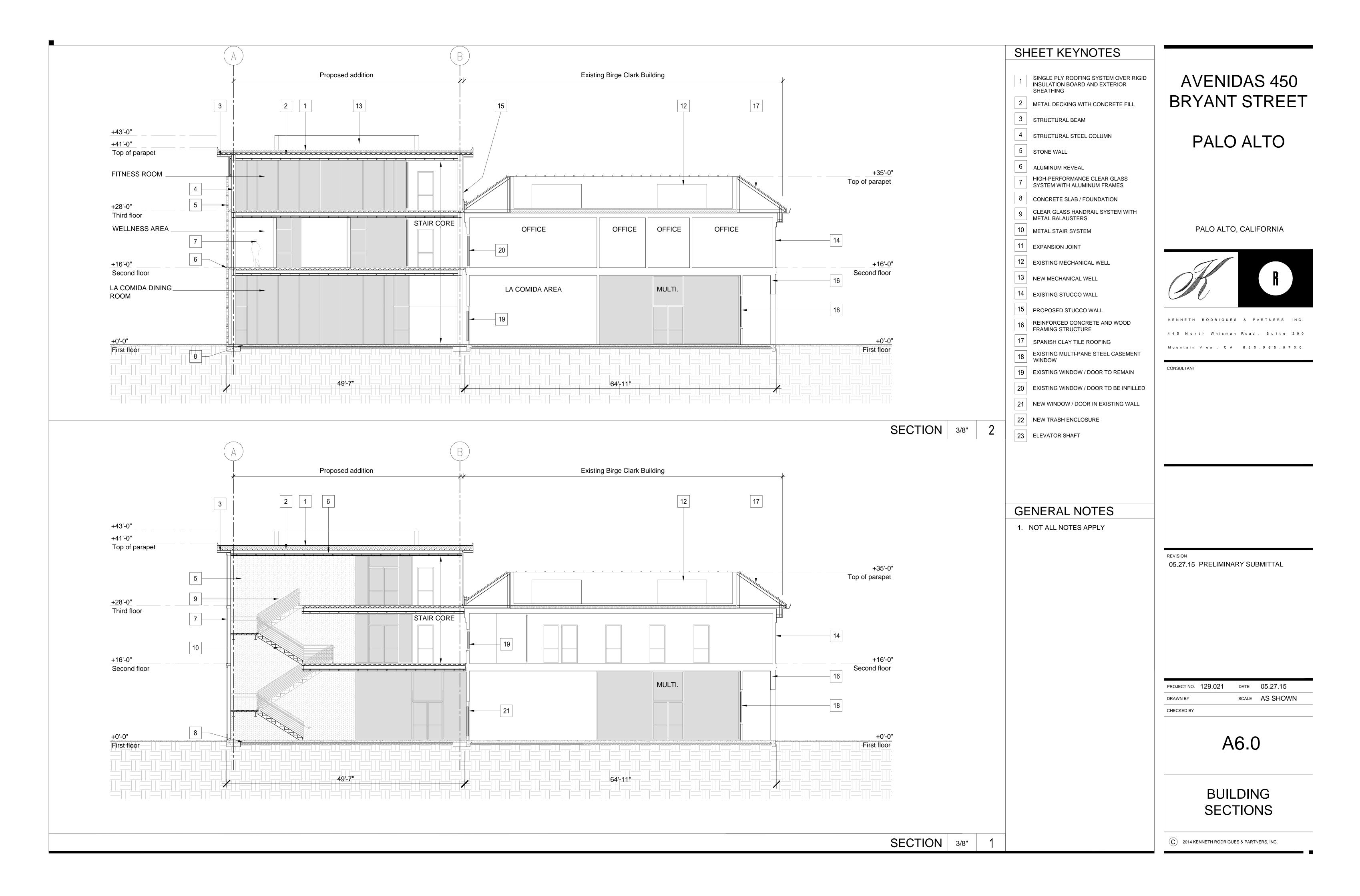


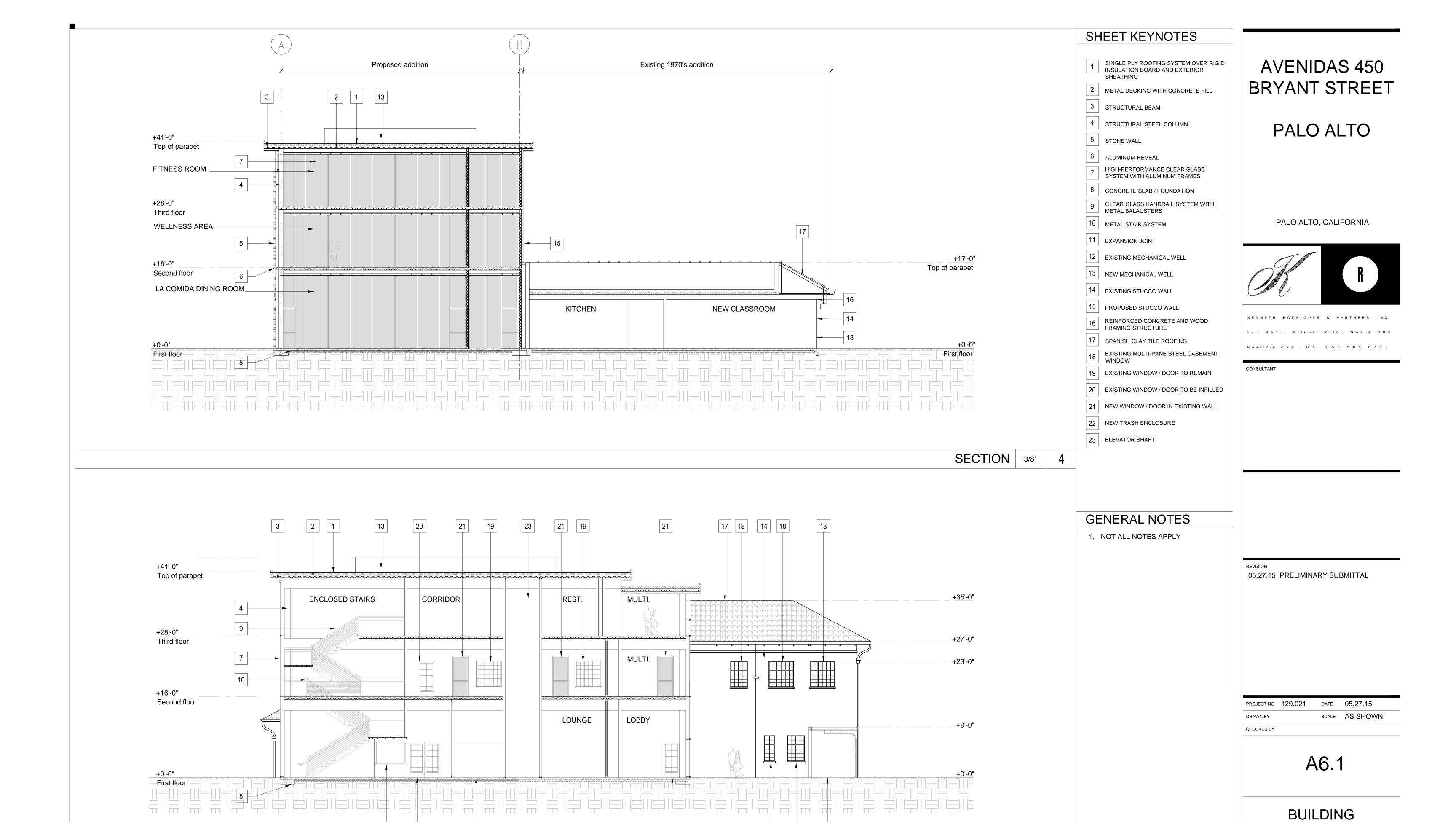




SHEET KEYNOTES **AVENIDAS 450** 10 EXISTING BUILDING TO BE REMOVED 1 EXISTING WINDOW TO REMAIN In order to retain the integrity of the existing building and maintain its historic character, the proposed addition will avoid the removal or **BRYANT STREET** 2 EXISTING WINDOW / DOOR TO BE INFILLED AND REMAIN 11 EXISTING TILE ROOF TO REMAIN alteration of important historic materials, features and spaces that characterize the property (Standard 2). With this main goal, the rear 3 EXISTING WINDOW TO BE REMOVED 12 EXISTING WOOD CANOPY TO BE REMOVED existing facade of the Birge Clark building will be preserved as much as possible. Part of the existing exterior elevation will turn into 4 NEW WINDOW / DOOR PALO ALTO 13 EXISTING OLD VILLAGES OFFICE BUILDING TO REMAIN an interior one. As depicted in the graphic (left side of the sheet), when walking through the new addition, part of the historic facade 5 EXISTING DOOR TO REMAIN 14 EXISTING TREE TO BE REMOVED will be seen from different positions and perspectives. 6 EXISTING DOOR TO BE MODIFIED AND REMAIN 15 EXISTING BUILDING MOLDINGS TO REMAIN 7 EXISTING DOOR TO BE REMOVED 8 EXISTING GATE TO BE REMOVED 9 EXISTING STAIRS TO SECOND FLOOR TO BE REMOVED PALO ALTO, CALIFORNIA _+35'-0" KENNETH RODRIGUES & PARTNERS INC. +27'-0" 445 North Whisman Road, Suite 200 Mountain View . C A 6 5 0 . 9 6 5 . 0 7 0 0 +23'-0" CONSULTANT +17'-0"_ +17'-0" +12'-0"_ +12'-0" +0'-0" +0'-0" 15 EXISTING REAR BIRGE CLARK BUILDING ELEVATION (FROM THE PARKING LOT) 1/8" 05.27.15 PRELIMINARY SUBMITTAL _+35'-0" _+27'-0" +23'-0" +17'-0"_ DATE 05.27.15 PROJECT NO. 129.021 +12'-0"_ SCALE AS SHOWN A5.2 +0'-0" +0'-0" REAR BIRGE CLARK 15 1 9 BUILDING **ALTERATIONS PLAN** EXISTING REAR BIRGE CLARK BUILDING ELEVATION (FROM THE COURTYARD) 1/8" 1 C) 2014 KENNETH RODRIGUES & PARTNERS, INC.







18

SECTION 3/8"

18

19

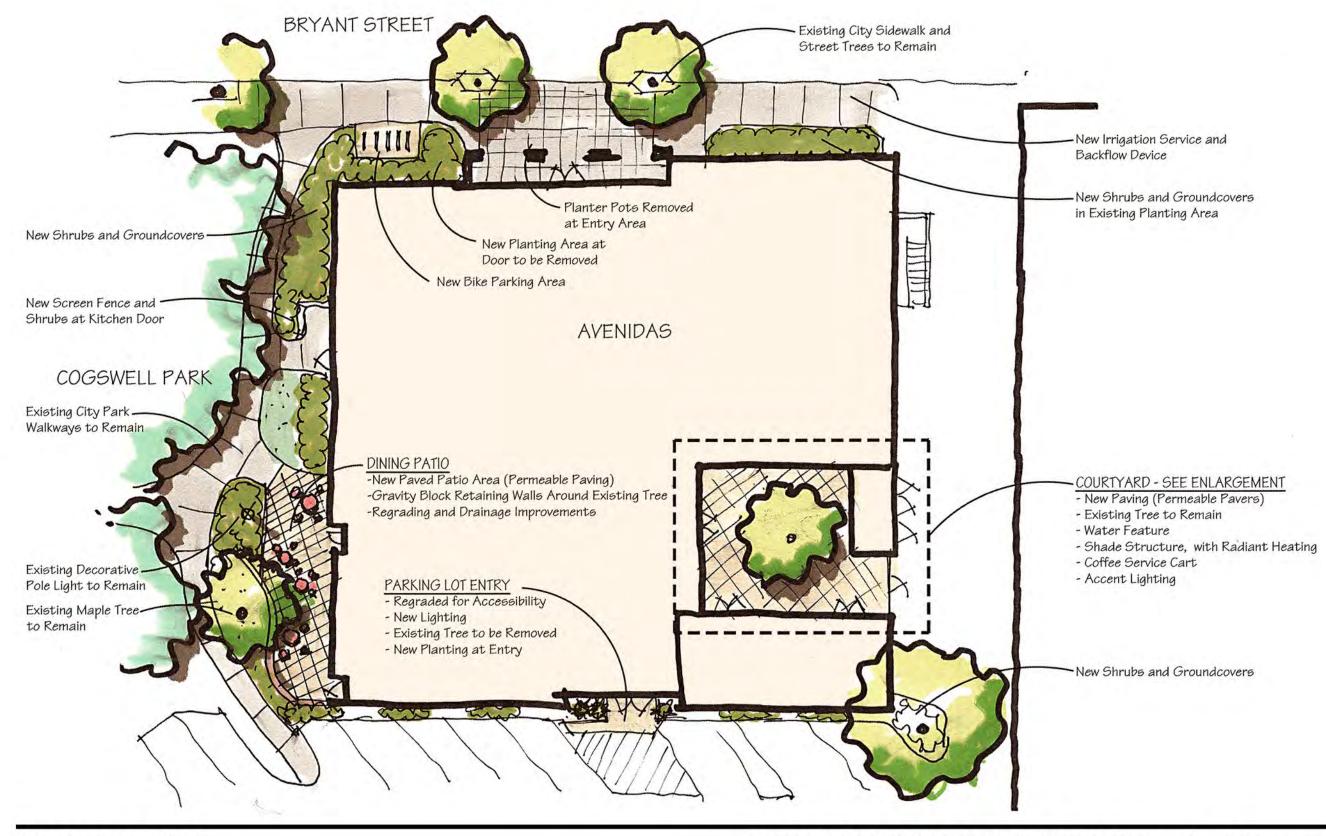
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19

21

SECTIONS

(C) 2014 KENNETH RODRIGUES & PARTNERS, INC.

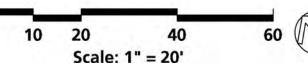


450 Bryant Street, Palo Alto

CONCEPTUAL LANDSCAPE PLAN

04.21.15

L1.0

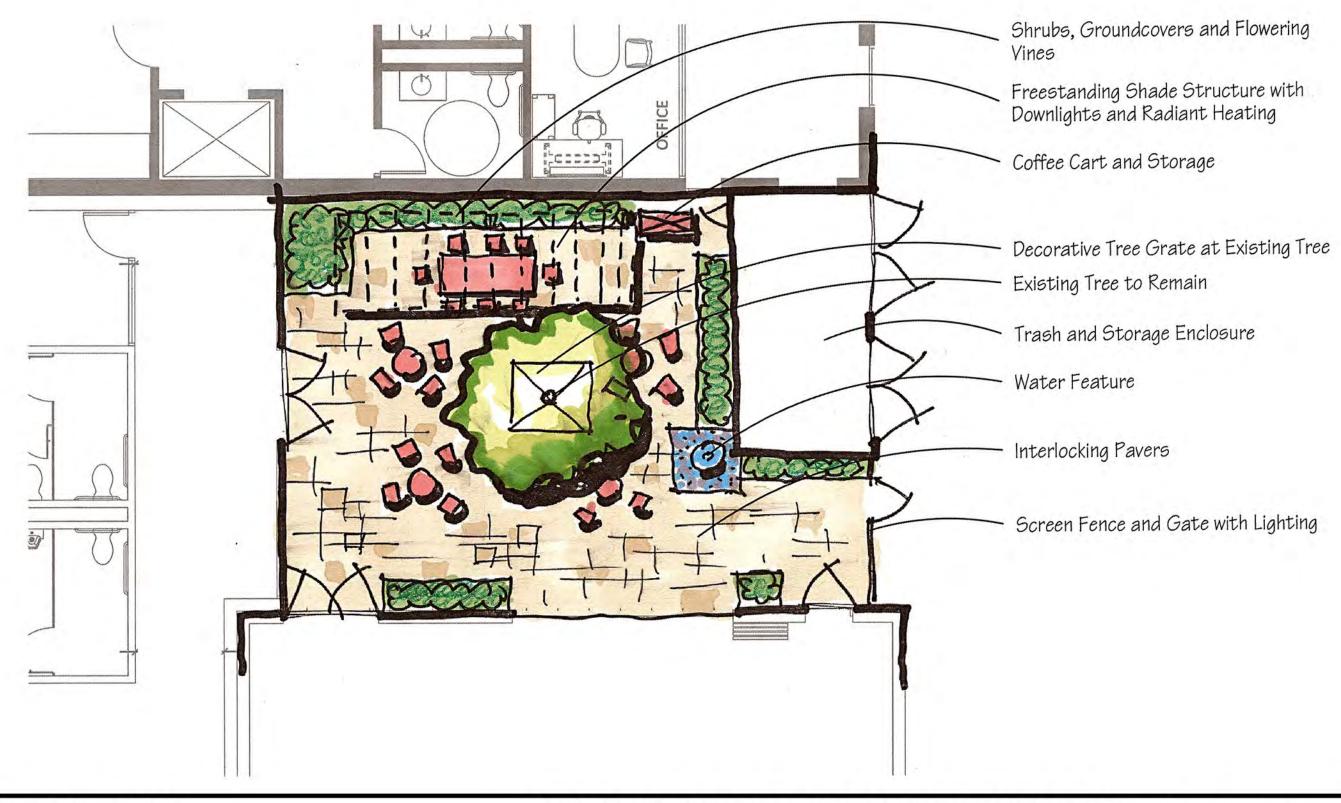




GUZZARDO PARTNERSHIPINC.

Landscape Architects • Land Planners

181 Greenwich Street San Francisco, CA 94111 T 415 433 4672 F 415 433 5003



450 Bryant Street, Palo Alto

CONCEPTUAL LANDSCAPE PLAN - COURTYARD

04.21.15

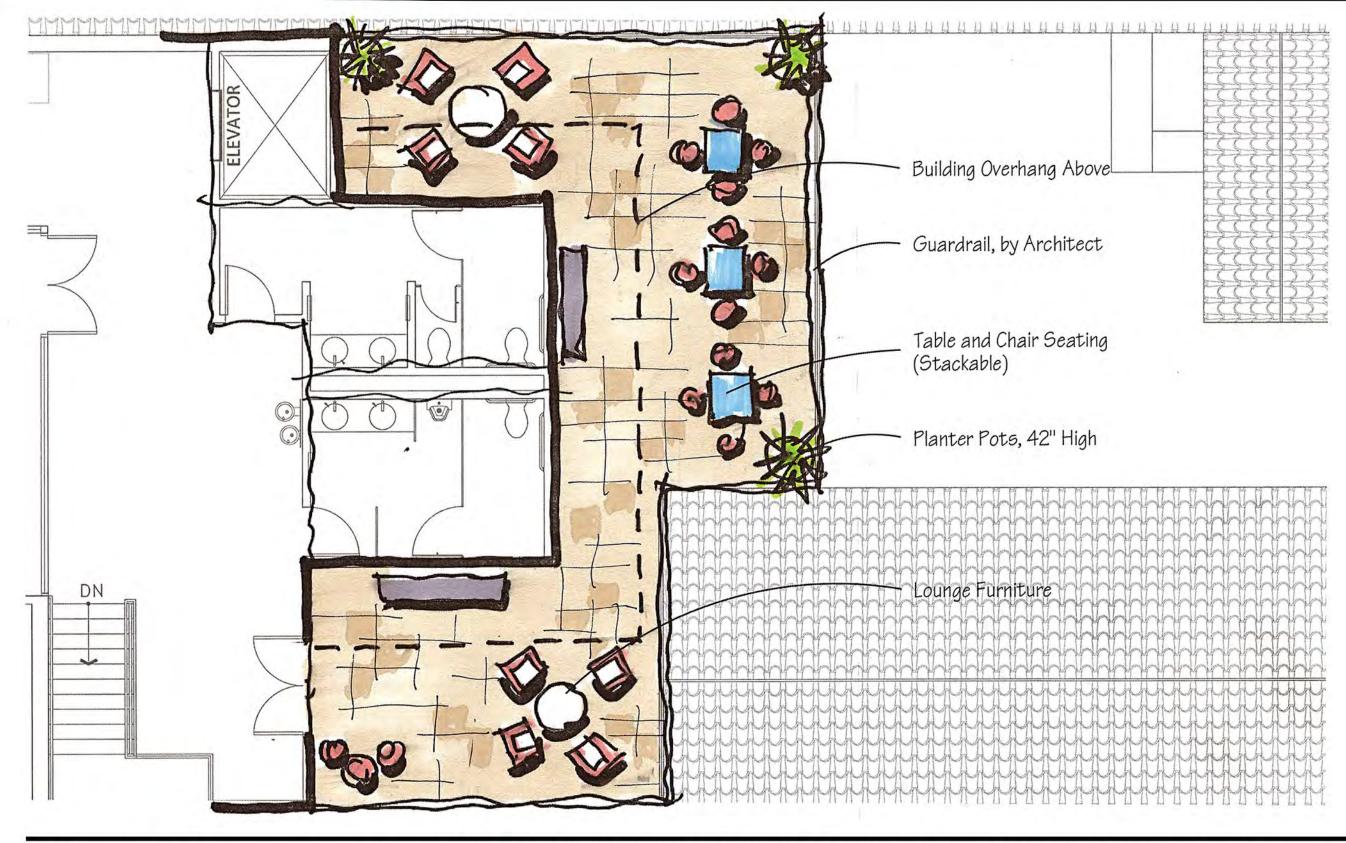
0 1 5 10 15 Scale: 3/16" = 1'-0"



L1.1



181 Greenwich Street San Francisco, CA 94111 T 415 433 4672



450 Bryant Street, Palo Alto

CONCEPTUAL LANDSCAPE PLAN - 3rd FLOOR ROOF DECK

0 1

04.21.15

5 10 15 Scale: 3/16" = 1'-0"



L1.2

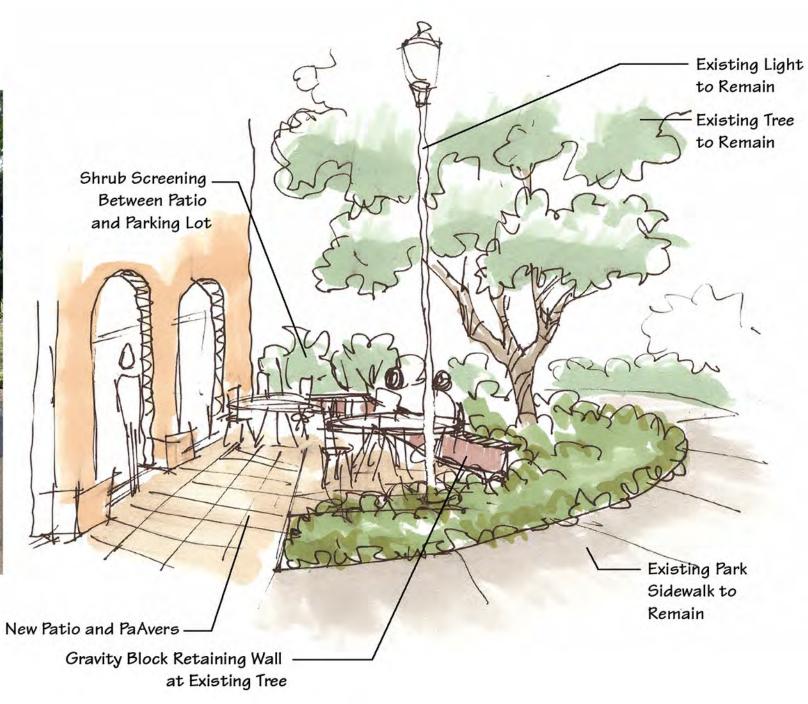


Landscape Architects • Land Planners

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EXISTING CONDITION



450 Bryant Street, Palo Alto

CONCEPTUAL PATIO SKETCH

04.21.15



181 Greenwich Street San Francisco, CA 94111 T 415 433 4672 F 415 433 5003

L1.3

o Parking Map (Exhibit E)

LEASE AGREEMENT TEMPLATE-USER INSTRUCTIONS

WHEN TO USE FORM: This form should only be used when the City is leasing City owned property to someone else. If the City is leasing property from a private party DO NOT USE this form.

HOW TO COMPLETE FORM: To use this form, you will need to fill in the information requested in bold. Below is a summary of the major items of information and lease references that will need to be customized before completing the agreement:

0	Tenant: Avenidas	
0	Address of Property: 450 Bryant Street, Palo Alto, CA 94301	
0	Square Footage and Description of Property: <u>Approximately 17,400 Square Feet of</u> Office Building Located	
0	Lease Term with Start and End:	
0	Length of Option Period: N/A	
0	Monthly Rent: \$1.00 & Yearly	
0	Amount of Security Deposit: None	
0	Required Uses of Property: Office & Administration functions to run a community center that provides services to seniors in the area	
0	Who Will Pay Utilities: Tenant	
0	Who Will Perform Maintenance: Refer to the lease section 9 Who Will Maintain Common and other Areas: Refer to lease section 9	
0	What Construction Lessee Will Perform, Permission Needed, and End Date: N/A	
0	What Construction Cost Requires City Approval: N/A	
0	Parcel Map of Property (Exhibit A)	
0	General Map (Exhibit B)	
0	Premise (Exhibit C)	
0	Insurance (Exhibit D)	

LEASE AGREEMENT

BETWEEN CITY OF PALO ALTO AND AVENIDAS

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LEASE AGREEMENT

BETWEEN CITY OF PALO ALTO AND AVENIDAS

This lease agreement (herein "Lease") is made and entered into this 1st day of January, 2015, by and between the **City of Palo Alto**, a California chartered municipal corporation (herein "City") and Avenidas, a non-profit, tax-exempt organization, (herein "Lessee"). City and Lessee may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Lease." The City Manager serves as Contract Administrator for this Lease on behalf of the City Council.

RECITALS

This Agreement is made with respect to the following facts:

- A. The City is the fee simple owner of the real property located at 450 Bryant Street, Palo Alto, situated County of Santa Clara, State of California, Assessor's Parcel Number 120-26-095 and site plan shown respectively on Exhibit "A" and Exhibit "B" of this Agreement (the "Property")
- **B.** Avenidas, a non-profit organization has been a tenant of the City at the Property since May of 1977 and the current lease with the City is set to expire on May of 2027.
- C. In order continue to provide quality services for the seniors in the area over a long term horizon, Avenidas has requested a new lease with a term of 50 years.
- **D.** Lessee desires to continue to occupy and use the Property which consists of a community center of approximately 17,400 square feet, more particularly described and shown in Exhibit "C" of this Agreement (the "Premise"), for the general purpose of providing services and activities to help older adults stay active, healthy, engaged and independent.
- E. The Parties are willing to terminate the current lease and City is willing to grant a new Lease to Lessee for the specific and limited uses described in this Agreement.

Now, therefore, in consideration of these recitals and the following covenants, terms, and conditions, Lessee and City mutually agree as follows:

LEASE PROVISIONS

1. PREMISES.

City hereby leases to Lessee, certain real property located in the City of Palo Alto, County of Santa Clara, State of California, commonly known as Avenidas and more particularly shown in **Exhibit "C"** attached hereto and incorporated herein by reference. The Property consists of approximately 17,400-square feet of space. Unless specifically provided, Lessee accepts the Premise "as-is" on the date of execution of this Lease.

2. TERM.

- 2.3 <u>Early Termination by City</u>. Intentionally Deleted.

3. RENT.

- 3.1 <u>Base Rent</u>. The rent to be paid by Lessee shall be at \$1.00 per year in advance on or before the first day of July of every calendar year during the term of this lease.
- 4. **SECURITY DEPOSIT**. Not Applicable.

5. <u>USE OF PROPERTY</u>.

- 5.1 Permitted Uses. Avenidas shall use the Premises for the purpose of providing support services to older adults and their caregivers, including but not limited to Lifelong Learning and Leisure programs, Health and Wellness services, Social Work services, Transportation and Handyman services and Volunteer programs, and Lessee may also use the Premises for the following uses: staff development, employee training, program review, meetings with business contacts Avenidas, and any other legally related use. Lessee may also rent rooms for occasional use to support its operation. The Premises may not be used for any other purposes without City's prior written consent, which consent may be withheld in the sole and absolute discretion of the City.
- 5.2. <u>Intent of the Use</u>. It is the further intent of the City and Lessee that Lessee is primarily responsible for the identification of sources and for the securing of commitments for the funds necessary to bring together on the premises a broad range of activities and services responsive to the interest and needs of senior citizens, to mobilize the energies and talents of senior citizens, to maximize the use of community resources, and to simulate development of new programs for

senior citizens. During the terms of this lease, Lessee agrees to use the premises to maintain and operate programs for senior citizens to carry out such purposes and for no other purpose.

- 5.3 Annual Budget. In order to insure that the use of the Premises is in keeping with the intended uses as set forth above, Lessee annually shall present to City the annual budget of Lessee within thirty (30) days after the Lessee has approved said budget. Lessee also will present to City for its information an annual report of the operation of the Center in the form as submitted to the State of California as required for a tax-exempt organization within one hundred and eighty (180) days of the end of each budget or operating year, and such statement shall include annual financial statement of Lessee.
- 5.4 Prohibited Uses. Lessee shall not use Premises for any purpose not expressly permitted hereunder. Lessee shall not create, cause, maintain or permit any nuisance or waste in, on, or about the Premises, or permit or allow the Premises to be used for any unlawful or immoral purpose. Lessee shall not do or permit to be done anything in any manner which unreasonably disturbs the users of the neighboring property. Specifically, and without limiting the above. Lessee agrees not to cause any unreasonable odor, noise, vibration, power emission, or other item to emanate from the Premises. No materials or articles of any nature shall be stored outside upon any portion of the Premises. Lessee will not use Property in a manner that increases the risk of fire, cost of fire insurance or improvements thereon. No unreasonable sign or placard shall be painted, inscribed or placed in or on said Property; and no tree or shrub thereon shall be destroyed or removed (except in connection with Lessee's maintenance of, or modification to, the landscaping) or other waste committed of said Property. No motorcycles, automobiles or other mechanical means of transportation shall be placed or stored anywhere on the Property, provided that the foregoing shall in no way limit Lessee's rights to use the parking areas on the Property. No repair, overhaul or modification of any motor vehicle shall take place on the Property or the street in front of said Property. Lessee, at his/her expense, shall keep the Property in as good condition as it was at the beginning of the terms hereof, except damage occasioned by ordinary wear and tear, and except damage to the roof, the exterior walls, sidewalks and underground plumbing, which is not the fault of Lessee.
- 5.5 <u>Condition, Use of Premises</u>. City makes no warranty or representation of any kind concerning the condition of the Premises, or the fitness of the Premises for the use intended by Lessee, and hereby disclaims any personal knowledge with respect thereto, it being expressly understood by the parties that Lessee has personally inspected the Premises, knows its condition, finds it fit for Lessee's intended use, accepts it as is, and has ascertained that it can be used exclusively for the limited purposes specified in Section 5.1.

6. <u>HAZARDOUS MATERIALS</u>.

6.1 <u>Hazardous Materials Defined</u>. The term "Hazardous Material(s)" shall mean any toxic or hazardous substance, material or waste or any pollutant or contaminant, or infectious or radioactive material, including but not limited to, those substances, materials, or wastes regulated now or in the future under any of the following statutes or regulations and any and all of those substances included within the definitions of "hazardous substances", "hazardous waste", "hazardous chemical substance or mixture," "toxic substances," "hazardous air pollutant", "toxic pollutant" or "solid waste" in the

- (a) CERCLA or Superfund as amended by SARA, 42 U.S.C. Sec. 9601 et seq., (b) RCRA, 42 U.S.C. Sec. 6901 et seq., (c) CWA., 33 U.S.C. Sec. 1251 et seq., (d) CAA, 42 U.S.C. 78401 et seq., (e) TSCA, 15 U.S.C. Sec. 2601 et seq., (f) The Refuse Act of 1899, 33 U.S.C. Sec. 407, (g) OSHA, 29 U.S.C. 651 et seq. (h) Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq., (i) USDOT Table (40 CFR Part 302 and amendments) or the EPA Table (40 CFR Part 302 and amendments), (j) California Superfund, Cal. Health & Safety Code Sec. 25300 et seq., (k) Cal. Hazardous Waste Control Act, Cal. Health & Safety Code Section 25100 et seq. (1) Porter-Cologne Act, Cal. Water Code Sec. 13000 et seq., (m) Hazardous Waste Disposal Land Use Law, Cal. Health & Safety Code Sec. 25220 et seq., (n) Proposition 65, Cal. Health and Safety Code Sec. 25249.5 et seq., (o) Hazardous Substances Underground Storage Tank Law, Cal. Health & Safety Code Sec. 25280 et seq., (p) California Hazardous Substance Act, Cal. Health & Safety Code Sec. 28740 et seq., (q) Air Resources Law, Cal. Health & Safety Code Sec. 39000 et seq., (r) Hazardous Materials Release Response Plans and Inventory, Cal. Health & Safety Code Secs. 25500-25541, (s) TCPA, Cal. Health and Safety Code Secs. 25208 et seq., and (t) regulations promulgated pursuant to said laws or any replacement thereof, or as similar terms are defined in the federal, state and local laws, statutes, regulations, orders or rules. Hazardous Materials shall also mean any and all other substances, materials, and wastes which are, or in the future become, regulated under applicable local, state or federal law for the protection of health or the environment, or which are classified as hazardous or toxic substances, materials or wastes, pollutants or contaminants, as defined, listed or regulated by any federal. state or local law, regulation or order or by common law decision, including without limitation: (i) trichloroethylene, tetracholoethylene, perchloroethylene and other chlorinated solvents; (ii) any petroleum products or fractions thereof; (iii) asbestos, (iv) polychlorinated biphenyls; (v) flammable explosives; (vi) urea formaldehyde; and, (vii) radioactive materials and waste.
- 6.2. <u>Compliance with Laws</u>. Lessee shall not cause or permit any Hazardous Material (as defined below) to be brought upon, kept or used in or about the Premises or Project by Lessee, its agents, employees, contractors or invitees.
- 6.3 <u>Termination of Lease</u>. City shall have the right to terminate the Lease in City's sole and absolute discretion in the event that: (i) any anticipated use of the Premises by Lessee involves the generation or storage, use, treatment, disposal, or release of Hazardous Material in a manner or for a purpose prohibited or regulated by any governmental agency, authority, or Hazardous Materials Laws; (ii) Lessee has been required by any lender or governmental authority to take remedial action in connection with Hazardous Material contaminating the Premises, if the contamination resulted from Lessee's action or use of the Premises; or (iii) Lessee is subject to an enforcement order issued by any governmental authority in connection with the release, use, disposal, or storage of a Hazardous Material on the Premises, if the contamination resulted from Lessee's action or use of the Premises.
- 6.4 <u>Assignment and Subletting</u>. It shall not be unreasonable for City to withhold its consent to an assignment or subletting to such proposed assignee or sublessee if: (i) any anticipated use of the Premises by any proposed assignee or sublessee involves the generation or storage, use, treatment, disposal, or release of Hazardous Material in a manner or for any purpose; (ii) the proposed assignee or sublessees has been required by any prior landlord, lender, or governmental authority to take remedial action in connection with Hazardous Material contaminating a property, if the contamination resulted from such party's action or use of the property in

question; or, (iii) the proposed assignee or sublessee is subject to an enforcement order issued by any governmental authority in connection with the release, use, disposal or storage of a Hazardous Material.

- Hazardous Materials Indemnity. Lessee shall indemnify, defend (by counsel reasonably acceptable to City), protect, and hold City harmless from and against any and all claims. liabilities, penalties, forfeitures, losses, and/or expenses, including without limitation, diminution in value of the Premises, damages for the loss or restriction on use of the rentable or usable space or of any amenity of the Premises, damages arising from any adverse impact or marketing of the Premises and sums paid in settlement of claims, response costs, cleanup costs, site assessment costs, attorneys' fees, consultant and expert fees, judgments, administrative rulings or orders, fines, costs of death of or injury to any person, or damage to any property whatsoever (including, without limitation, groundwater, sewer systems, and atmosphere), arising from, caused, or resulting, either prior to or during the Lease Term, in whole or in part, directly or indirectly, by the presence or discharge in, on, under, or about the Premises by Lessee, Lessee's agents. employees, licensees, or invitees or at Lessee's direction, of Hazardous Material, or by Lessee's failure to comply with any Hazardous Materials Law, whether knowingly or by strict liability. For purposes of the indemnity provided herein, any acts or omissions of Lessee or its employees, agents, customers, sublessees, assignees, contractors, or subcontractors of Lessee (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Lessee. Lessee's indemnification obligations shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary Hazardous Materials management plan, investigation, repairs, cleanup or detoxification or decontamination of the Premises, and the presence and implementation of any closure, remedial action or other required plans, and shall survive the expiration of or early termination of the Lease Term.
- 6.6 <u>City's Right to Perform Tests</u>. At any time prior to the expiration of the Lease Term, City shall have the right to enter upon the Premises in order to conduct tests of water and soil.

7. UTILITIES AND OPERATING EXPENSES.

7.1. Operating Cost. City shall furnish to the Property reasonable quantities of gas, electricity, water, sewer and refuse collections services as required for Lessee's use. The Lessee shall also be allowed use of internet access as exists within the Premises. However, if City is required to construct new or additional utility installations, including, without limitation, wiring, plumbing, conduits, and mains, resulting from Lessee's special requirements, Lessee shall on demand pay to City the total cost of such items. Lessee agrees to pay for all water, gas, heat, electricity, power, light, telephone service, garbage removal, or other public utility service used during the term of this lease; provided, however, Lessee shall pay twenty –five percent (25%) of any monthly City utilities charges for the Premises, and City shall pay the remaining seventy five percent (75%) of the monthly City utilities charges from City's General Fund. Lessee agrees to employ sound and innovative conservation practices in addition to abiding by all City conservation requirements.

8. TAXES.

8.1 Real Property Taxes Defined. The term "real property taxes" as used herein shall mean all

taxes, assessments, levies and other charges, general and special, foreseen and unforeseen, now or hereafter imposed by any governmental or quasi-governmental authority or special district having the direct or indirect power to tax or levy assessments, which are levied or assessed against or with respect to: (i) value, occupancy, use or possession of the Premises and/or the Improvements; (ii) any improvements, fixtures, equipment and other real or personal property of Lessee that are an integral part of the Premises; or, (iii) use of the Premises, Improvements public utilities or energy within the Premises. The term "real property taxes" shall also mean all charges, levies or fees imposed by reason of environmental regulation or other governmental control of the premises and/or the Improvements, new or altered excise, transaction, sales, privilege, assessment, or other taxes or charges now or hereafter imposed upon City as a result of this Lease, and all costs and fees (including attorneys' fees) incurred by City in contesting any real property taxes and in negotiating with public authorities as to any real property taxes affecting the Premises. If any real property taxes are based upon property or rents unrelated to the Premises and/or the Improvements, then only that part of such tax that is fairly allocable to the Premises and/or the Improvements, as determined by City, on the basis of the assessor's worksheets or other available information, shall be included within the meaning of the term "real property taxes."

- 8.2 Payment of Real Property Taxes. Lessee shall pay Lessee's share of all real property taxes (as defined in Section 8.1 above) which become due and payable to City on or before the later of ten (10) days prior to the delinquency thereof or fifteen (15) days after the date on which Lessee receives a copy of the tax bill and notice of City's determination hereunder. Lessee's liability to pay real property taxes shall be prorated on the basis of a three hundred sixty-five (365) day year to account for any fraction or portion of a tax year included in the Lease Term at the commencement or expiration of the Lease.
- 8.3 <u>Revenue and Taxation Code</u>. Lessee specifically acknowledges it is familiar with section 107.6 of the California Revenue and Taxation Code. Lessee realizes that a possessory interest subject to property taxes may be created, agrees to pay any such tax, and hereby waives any rights Lessee may have under said California Revenue and Taxation Code section 107.6.
- 8.4 <u>Personal Property Taxes</u>. Lessee shall pay before delinquent, or if requested by City, reimburse City for, any and all taxes, fees, and assessments associated with the Property, the personal property contained in the Premises and other taxes, fees, and assessments regarding any activities which take place at the Property. Lessee recognizes and understands in accepting this Lease that its interest therein may be subject to a possible possessory interest tax that City or County may impose on such interest and that such tax payment shall not reduce any rent due City hereunder and any such tax shall be the liability of and be paid by Lessee.

9. MAINTENANCE AND REPAIRS & CAPITAL IMPROVEMENT

9.1 <u>Lessee Responsibilities</u>. Lessee at Lessee's expense, shall perform all maintenance and repairs, including all painting, and all maintenance of landscaped areas necessary to keep the Premises and all improvements thereto in first-class order, repair, and condition, and shall keep the Premises in a safe, clean, wholesome, and sanitary condition to the complete but reasonable satisfaction of City, and in compliance with all applicable laws, throughout the term of this Lease. In addition, Lessee shall maintain, at Lessee's expense, all equipment, furnishings and

trade fixtures upon the Premises required for the maintenance and operation of a first-class business of the type to be conducted pursuant to this Lease. Lessee shall be responsible for the maintenance, repair and replacement of the structures located on the Premises and all the main support systems exclusively serving the Premises, including plumbing (but excluding the portions of the same that are underground), electrical, HVAC, foundation, framing, exterior walls of the Premises and structural support systems. Lessee will be responsible for the maintenance, repair of the roof. Notwithstanding the foregoing, except to the extent any maintenance, repair or replacement is made necessary by the negligence of Lessee, the City shall be responsible for the replacement of the roof.

9.2 Waiver of Civil Code. Lessee expressly waives the benefit of any statute now or hereinafter in effect, including the provisions of sections 1941 and 1942 of the Civil Code of California, which would otherwise afford Lessee the right to make repairs at City's expense or to terminate this Lease because of City's failure to keep Premises in good order, condition and repair. Lessee further agrees that if and when any repairs, alterations, additions or betterments shall be made by Lessee as required by this paragraph, Lessee shall promptly pay for all labor done or materials furnished and shall keep the Premises free and clear of any lien or encumbrance of any kind whatsoever. If Lessee fails to make any repairs or perform any maintenance work for which Lessee is responsible within a reasonable time (as determined by the City Manager in the City Manager's sole discretion) after demand by the City, City shall have the right, but not the obligation, to make the repairs at Lessee's expense; within ten (10) days of receipt of a bill, Lessee shall reimburse City for the cost of such repairs, including a fifteen percent (15% administrative overhead fee. The making of such repairs or performance of maintenance by City shall in no event be construed as a waiver of the duty of Lessee to make repairs or perform maintenance as provided in this Section.

10. <u>ALTERATIONS BY LESSEE</u>

Lessee shall not make any alterations or improvements to the Premises without obtaining the prior written consent of the City Manager, except for alterations or improvements that cost less than Ten Thousand Dollars (\$10,000.00) and which do not affect the building systems or the structural integrity or structural components of the Premises. Lessee may, at any time and at its sole expense, and without the prior written consent of City, install and place business fixtures and equipment within the Premises.

11. CONSTRUCTION BY LESSEE.

11.1 Ownership of Improvements. All improvements constructed, erected, or installed upon the Premises must be free and clear of all liens, claims, or liability for labor or material and shall become the property of City, at its election, upon expiration or earlier termination of this lease and upon City's election, shall remain upon the Premises upon termination of this Lease. Title to all equipment, furniture, furnishings, and trade fixtures placed by Lessee upon the Premises shall remain in Lessee, and replacements, substitutions and modifications thereof may be made by Lessee throughout the term of this Lease. Lessee may remove such fixtures and furnishings upon termination of this Lease if Lessee is not then in default under this Lease, provided that Lessee shall repair to the satisfaction of City any damage to the Premises and improvements

caused by such removal and provided that usual and customary lighting, plumbing and heating fixtures shall remain upon the Premises upon termination of this Lease.

- 11.2 <u>Indemnity for Claims Arising Out of Construction</u>. Lessee shall defend and indemnify City against all claims, liabilities, and losses of any type arising out of work performed on the Premises by Lessee, together with reasonable attorneys' fees and all costs and expenses reasonably incurred by City in negotiating, settling, defending or otherwise protecting against such claims.
- Assurance of Completion. Prior to commencement of any construction or alteration expected to cost more than \$5,000, Lessee shall furnish the City Manager evidence that assures City that sufficient funds will be available to complete the proposed work. The amount of such assurance shall be at least the total estimated construction cost. Evidence of such assurance shall take one of the forms set out below and shall guarantee Lessee's full and faithful performance of all of the terms, covenants, and conditions of this Lease:
 - A. Completion Bond;
 - B. Performance, labor and material bonds, supplied by Lessee's contractor or contractors, provided the bonds are issued jointly to Lessee and City;
 - C. Irrevocable letter of credit from a financial institution;
 - D. Proof of cash or other liquid assets; or
 - E. Any combination of the above.

All bonds and letters of credit must be issued by a company qualified to do business in the State of California and be acceptable to the City Manager. All bonds and letters of credit shall be in a form acceptable to the City Manager, and shall insure faithful and full observance and performance by Lessee of all of the terms, conditions, covenants, and agreements relating to the construction of improvements or alterations in accordance with this Lease.

- 11.4 <u>Certificate of Inspection</u>. Upon completion of construction of any building, Lessee shall submit to the City Manager a Certificate of Inspection, verifying that the construction was completed in conformance with Title 20 of the California Code of Regulations for residential construction, or in conformance with Title 24 of the California Code of Regulations for non-residential construction.
- 11.5 <u>As Built Plans</u>. Lessee shall provide the City Manager with a complete set of reproducible "as built plans" reflecting actual construction within or upon the Premises upon completion of any: (i) new construction; (ii) structural alterations; or, (iii) non-structural alterations costing more than \$25,000.

12. HOLD HARMLESS/INDEMNIFICATION.

12.1 <u>Indemnification</u>. To the extent permitted by law, Lessee agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, agents, volunteers, and employees from and against any claim, injury, liability, loss, cost, and/or expense or damage, however same may be caused, including all costs and reasonable attorney's fees in providing a defense to any claim arising therefrom for which City shall become legally liable arising from

Lessee's negligent, reckless, or wrongful acts, errors, or omissions with respect to or in any way connected with this Lease. Lessee shall give City immediate notice of any claim or liability hereby indemnified against. This indemnity shall be in addition to the Hazardous Materials indemnity contained in this Lease and shall survive shall survive the expiration of or early termination of the Lease Term.

12.2 <u>Waiver of Claims</u>. Lessee waives any claims against City for injury to Lessee's business or any loss of income therefrom, for damage to Lessee's property, or for injury or death of any person in or about the Premises, from any cause whatsoever, except to the extent caused by the active negligence or willful misconduct of City or City's officers, agents, contractors, volunteers, and employees.

13. <u>DAMAGE, DESTRUCTION AND TERMINATION.</u>

- 13.1 <u>Nontermination and Nonabatement</u>. Except as provided herein, no destruction or damage to the Premises by fire, windstorm or other casualty, whether insured or uninsured, shall entitle Lessee to terminate this Lease. City and Lessee waive the provisions of any statutes which relate to termination of a lease when leased property is destroyed and agree that such event shall be governed by the terms of this Lease.
- 13.2 Force Majeure. Prevention, delay or stoppage due to strikes, lockouts, labor disputes, Acts of God, inability to obtain labor, inability to obtain materials or reasonable substitutes, governmental restrictions, governmental regulation, governmental controls, judicial orders, enemy or hostile governmental actions, civil commotion, fire or other casualty, and other causes beyond the reasonable control of Lessee (financial inability excepted), shall excuse the performance by Lessee for a period equal to the prevention, delay, or stoppage, except the obligations imposed with regard to rent to be paid by Lessee pursuant to this Lease. In the event any work performed by Lessee or Lessee's contractors results in a strike, lockout, and/or labor dispute, the strike, lockout, and/or labor dispute shall not excuse the performance by Lessee of the provisions of this Lease.

13.3 Restoration of Premises by Lessee.

13.3.1 Destruction Due to Risk Covered by Insurance. If, during the term, the Premises are totally or partially destroyed from a risk covered by the insurance described in Section 20 (Insurance), rendering the Premises totally or partially inaccessible or unusable, Lessee shall restore the Premises to substantially the same condition as it was in immediately before destruction, but only to the extent of insurance proceeds actually received. Such destruction shall not terminate this Lease. If the laws existing at that time do not permit the restoration, either party can terminate this Lease immediately by giving notice to the other party.

A. Minor Loss. If, during the term of this Lease, the Premises are destroyed from a risk covered by the insurance described in Section 20 (Insurance), and the total amount of loss does not exceed one hundred thousand dollars (\$100,000), Lessee shall make the loss adjustment with the insurance company insuring the loss. The proceeds shall be paid directly to Lessee for the sole purpose of making the

restoration of the Premises in accordance with this Lease.

- B. Major Loss-Insurance Trustee. If, during the term of this Lease, the Premises are destroyed from a risk covered by the insurance described in Section 20 (Insurance), and the total amount of loss exceeds the amount set forth in paragraph (1), Lessee shall make the loss adjustment with the insurance company insuring the loss and on receipt of the proceeds shall immediately pay them to an institutional lender or title company as may be jointly selected by the parties ("the Insurance Trustee"), and funds shall be disbursed by the Insurance Trustee pursuant to the procedures set forth below in Section 13.3.2.
- 13.3.2 Destruction Due to Risk Not Covered by Insurance. If, during the term, the Premises are totally or partially destroyed from a risk not covered by the insurance described in Section 20 (Insurance), rendering the Premises totally or partially inaccessible or unusable, Lessee shall restore the Premises to substantially the same condition as it was in immediately before destruction, whether or not the insurance proceeds are sufficient to cover the actual cost of restoration. Such destruction shall not terminate this Lease. If the laws existing at that time do not permit the restoration, either party can terminate this Lease immediately by giving notice to the other party.

If the cost of restoration exceeds ten percent (10%) of the then replacement value of the Premises totally or partially destroyed, Lessee can elect to terminate this Lease by giving notice to City within sixty (60) days after determining the restoration cost and replacement value. If Lessee elects to terminate this Lease, City, within thirty (30) days after receiving Lessee's notice to terminate, can elect to pay to Lessee, at the time City notifies Lessee of its election, the difference between ten percent (10%) of the replacement value of the Premises and the actual cost of restoration, in which case Lessee shall restore the Premises. On City's making its election to contribute, each party shall deposit immediately the amount of its contribution with such institutional lender or Title Company as may be jointly selected by the parties ("the Insurance Trustee"). If the Destruction does not exceed ten percent (10%) of the then replacement value of the Premises but does exceed one hundred thousand dollars (\$100,000), Lessee shall immediately deposit the cost of restoration with an Insurance Trustee. This Lease shall terminate if Lessee elects to terminate this Lease and City does not elect to contribute toward the cost of restoration as provided in this section.

If the Premises are destroyed from a risk not covered by the insurance described in Section 20 (Insurance), and Lessee has the obligation to restore the Premises as provided in subsection (B), both parties shall deposit with the Insurance Trustee their respective contributions toward the cost of restoration. All sums deposited with the Insurance Trustee shall be held for the following purposes and the Insurance Trustee shall have the following powers and duties:

The sums shall be paid in installments by the Insurance Trustee to the contractor retained by Lessee as construction progresses, for payment of the cost of

Restoration. A 10% retention fund shall be established that will be paid to the contractor on completion of restoration, payment of all costs, expiration of all applicable lien periods, and proof that the Premises are free of all mechanics' liens and lienable claims.

Payments shall be made on presentation of certificates or vouchers from the architect or engineer retained by Lessee showing the amount due. If the Insurance Trustee, in its reasonable discretion, determines that the certificates or vouchers are being improperly approved by the architect or engineer retained by Lessee, the Insurance Trustee shall have the right to appoint an architect or an engineer to supervise construction and to make payments on certificates or vouchers approved by the architect or engineer retained by the Insurance Trustee. The reasonable expenses and charges of the architect or engineer retained by the Insurance Trustee shall be paid by the insurance trustee out of the trust fund. Both parties shall promptly execute all documents and perform all acts reasonably required by the Insurance Trustee to perform its obligations under this section.

If the sums held by the Insurance Trustee are not sufficient to pay the actual cost of restoration Lessee shall deposit the amount of the deficiency with the Insurance Trustee within fifteen (15) days after request by the Insurance Trustee indicating the amount of the deficiency. Any undisbursed funds after compliance with the provisions of this section shall be delivered to City to the extent of City's contribution to the fund, and the balance, if any, shall be paid to Lessee. All actual costs and charges of the Insurance Trustee shall be paid by Lessee.

If the Insurance Trustee resigns or for any reason is unwilling to act or continue to act, a new trustee shall be jointly selected by the parties and shall be substituted in the place of the designated Insurance Trustee. The new trustee must be an institutional lender or title company.

13.3.3 Procedure for Restoring Premises. When Lessee is obligated to restore the Premises, within ninety (90) days Lessee at its cost shall prepare final plans, specifications, and working drawings complying with applicable Laws that will be necessary for restoration of the Premises and shall deliver the same to City for approval. The plans, specifications, and working drawings must be approved by City, such approval not to be unreasonably withheld, conditioned or delayed. City shall have thirty (30) days after receipt of the plans and specifications and working drawings to either approve or disapprove the plans, specifications, and working drawings and return them to Lessee. If City disapproves the plans, specifications, and working drawings, City shall notify Lessee of its objections and City's proposed solution to each objection. Lessee acknowledges that the plans, specifications, and working drawings shall be subject to approval of the appropriate governmental bodies and that they will be prepared in such a manner as to obtain that approval.

The restoration shall be accomplished as follows:

- A. Lessee shall make commercially reasonable efforts to complete the restoration within 180 working days after final plans and specifications and working drawings have been approved by the appropriate governmental bodies and all required permits have been obtained (subject to a reasonable extension for delays resulting from causes beyond Lessee's reasonable control).
- B. Lessee shall retain a licensed contractor that is bondable. The contractor shall be required to carry public liability and property damage insurance, standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements, during the period of construction in accordance with Section 20 (Insurance). Such insurance shall contain waiver of subrogation clauses in favor of City and Lessee in accordance with the Provisions of Exhibit B.
- C. Lessee shall notify City of the date of commencement of the restoration at least ten (10) days before commencement of the restoration to enable City to post and record notices of nonresponsibility. The contractor retained by Lessee shall not commence construction until a completion bond and a labor and materials bond have been delivered to City to insure completion of the construction.
- D. Lessee shall accomplish the restoration in a manner that will cause the least inconvenience, annoyance, and disruption at the Premises.
- E. On completion of the restoration Lessee shall immediately record a notice of completion in the county in which the Premises are located.
- F. If funds are required to be deposited with an Insurance Trustee as required by this Section 13, the restoration shall not be commenced until sums sufficient to cover the cost of restoration are placed with the Insurance Trustee as provided in this section.

14. <u>SIGNS</u>.

Lessee shall not place, construct, maintain, or allow any signs upon the Premises without prior written consent of City, such consent not to be unreasonably withheld, conditioned or delayed.

15. ASSIGNMENT AND SUBLETTING.

15.1 <u>City's Consent Required</u>. Lessee shall not assign this lease, nor any interest therein, and shall not sublet or encumber the Property or any part thereof, nor any right or privilege appurtenant thereto, nor allow or permit any other person(s) to occupy or use the Property, or any portion thereof, without the prior written consent of City. This Lease shall be binding upon any permitted assignee or successor of Lessee. Consent by City to one assignment, subletting, occupation or use by another person shall not be deemed to be consent to any subsequent assignment, subletting, occupation or use by another person. No assignment, subletting, or encumbrance by Lessee shall release it from or in any way alter any of Lessee's obligations under this Lease. Lessee may, without the prior written consent of City, have the Property delivered to (i) a parent or subsidiary company of Lessee, (ii) an entity which purchases all of the assets of

Lessee, or (iii) an entity into which Lessee is merged or consolidated, but such arrangement shall in no way alter Lessee's responsibilities hereunder with respect to the Property, and Lessee shall promptly notify City of such transfer. Any assignment, subletting, encumbrances, occupation, or use contrary to the provisions of this Lease shall be void and shall constitute breach of this Lease. City may assign any of its rights hereunder without notice to Lessee.

15.2 No Release of Lessee. No subletting or assignment as approved by City shall release Lessee of Lessee's obligation or alter the primary liability of Lessee to pay the rent and to perform all other obligations by Lessee hereunder. The acceptance of rent by City from any other person shall not be deemed to be a waiver by City of any provision hereof. In the event of default by any assignee of Lessee or any successor of Lessee in the performance of any of the terms hereof, City may proceed directly against Lessee without the necessity of exhausting remedies against said assignee.

16. **DEFAULTS; REMEDIES**.

- 16.1 <u>Defaults</u>. The occurrence of any one or more of the following events shall constitute a material default, or breach of this Lease, by Lessee:
 - 16.1.1 Abandonment of the Premises by Lessee as defined by California Civil Code section 1951.3;
 - 16.1.2 Failure by Lessee to make any payment of rent or any other payment required to be made by Lessee hereunder, as provided in this Lease, where such failure shall continue for a period of ten (10) business days after written notice thereof from City to Lessee. In the event City serves Lessee with a Notice to Pay Rent or Quit pursuant to applicable Unlawful Detainer statutes, such Notice to Pay Rent or Quit shall also constitute the notice required by this subparagraph;
 - 16.1.3 Failure by Lessee to observe or perform any of the covenants, conditions or provisions of this Lease in any material respect where such failure shall continue for a period of thirty (30) days after written notice thereof from City to Lessee; provided, however, that if the nature of Lessee's default is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default if Lessee commenced such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion;
 - 16.1.4 Making by Lessee of any general arrangement or assignment for the benefit of creditors; Lessee's becoming a "debtor" as defined in 11 U.S.C. §101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within sixty (60) days); the appointment of a bankruptcy trustee or receiver to take possession of all or substantially all of Lessee's assets located at or on the Premises or of Lessee's interest in this Lease where possession is not restored to Lessee within thirty (30) days; or the attachment, execution or other judicial seizure of all or substantially all of Lessee's assets located at or on the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within thirty (30) days.

- 16.2 <u>Remedies</u>. In the event of any material default or breach by Lessee, City may at any time thereafter, following any notice required by statute, and without limiting City in the exercise of any right or remedy which City may have by reason of such default or breach:
 - 16.2.1 Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession of the Premises and Improvements to City. In such event, City shall be entitled to recover from Lessee all damages incurred by City by reason of Lessee's default including but not limited to: the cost of recovering possession of the Premises and Improvements; expenses of reletting, including necessary renovation and alteration of the Premises and Improvements; reasonable attorneys' fees; the worth at the time of the award of the unpaid rent that had been earned at the time of termination of this Lease and the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of such award exceeds the amount of such rental loss for the same period that Lessee proves could be reasonably avoided.
 - 16.2.2 Maintain Lessee's right to possession, in which case this Lease shall continue in effect whether or not Lessee shall have abandoned the Premises. In such event, City shall be entitled to enforce all of City's rights and remedies under this Lease, including the right to recover rent and other payments as they become due hereunder.
 - 16.2.3 Pursue any other remedy now or hereafter available to City under the laws or judicial decisions of the State of California. City shall have all remedies provided by law and equity.
- 16.3 <u>No Relief from Forfeiture After Default</u>. Lessee waives all rights of redemption or relief from forfeiture under California Code of Civil Procedure sections 1174 and 1179, and any other present or future law, in the event Lessee is evicted or City otherwise lawfully takes possession of the Premises by reason of any default or breach of this Lease by Lessee.
- 16.4 <u>Disposition of Abandoned Personal Property</u>. If the Lessee fails to remove any personal property belonging to Lessee from the Premises after forty-five (45) days of the expiration or termination of this Lease, such property shall at the option of City be deemed to have been transferred to City. City shall have the right to remove and to dispose of such property without liability to Lessee or to any person claiming under Lessee, and the City shall have no need to account for such property.

17. <u>INTEREST ON PAST-DUE OBLIGATIONS</u>.

Except as expressly provided herein, any amount due City when not paid when due shall bear interest at the lesser of ten percent (10%) per year or the maximum rate then allowable by law from the date due.

18. HOLDING OVER.

If Lessee remains in possession of the Premises or any part thereof after the expiration of the term or option term hereof, such occupancy shall be a tenancy from month to month with all the

obligations of this Lease applicable to Lessee and at a monthly rental obligation of ten percent (10%) increase over the Base Rent in effect at the time of expiration. Nothing contained in this Lease shall give to Lessee the right to occupy the Property after the expiration of the term, or upon an earlier termination for breach.

19. CITY'S ACCESS.

- 19.1 Access for Inspection. City and City's agents shall have the right to enter the Premises at reasonable times, upon not less than twenty-four (24) hours prior notice to Lessee, for the purpose of inspecting same, showing same to prospective purchasers, lenders or lessees, and making such alterations, repairs, improvements, or additions to the Premises as City may deem necessary. City may at any time place on or about the Premises any ordinary "For Sale" signs and City may at any time during the last one hundred twenty (120) days of the term hereof place on or about the Premises any ordinary "For Lease" signs, all without rebate of rent or liability to Lessee.
- 19.2 <u>Security Measures</u>. City shall have the right to require a reasonable security system, device, operation, or plan be installed and implemented to protect the Premises or the Improvements. Should City, in its sole discretion, require Lessee to install such a security system, Lessee agrees to bear the sole cost and expense of any security system, device, operation or plan and the installation and implementation thereof. Lessee shall obtain City's prior approval before installing, implementing or changing any City approved security system, device, operation or plan.
- 19.3 New Locks. Lessee may install new locks on all exterior doors. Lessee shall advise City of such action and shall provide City with keys to said locks. Lessee shall also deliver to City the old locks with keys. Upon termination, all locks shall become the property of City.

20. INSURANCE.

Lessee's responsibility for the Property begins immediately upon delivery and Lessee, at its sole cost and expense, and at no cost to City, shall purchase and maintain in full force and effect during the entire term of this Lease insurance coverage in amounts and in a form acceptable to City as set forth in Exhibit C attached hereto and incorporated herein by reference. Said policies shall be maintained with respect to Lessee's employees, if any, and all vehicles operated on the Premises. The policies shall include the required endorsements, certificates of insurance and coverage verifications as described in **Exhibit D**. Lessee also agrees to secure renter's liability insurance.

Lessee shall deposit with the City Manager, on or before the effective date of this Lease, certificates of insurance necessary to satisfy City that the insurance provisions of this Lease have been complied with, and to keep such insurance in effect and the certificates therefore on deposit with City during the entire term of this Lease. Should Lessee not provide evidence of such required coverage at least three (3) days prior to the expiration of any existing insurance coverage, City may purchase such insurance, on behalf of and at the expense of Lessee to provide six months of coverage.

City shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of the City's Risk Manager (or comparable official), the insurance provisions in this Lease do not provide adequate protection for City and for members of the public using the Premises, the City Manager may require Lessee to obtain insurance sufficient in coverage, form, and amount to provide adequate protection as determined by the Risk Manager. City's requirements shall be reasonable and shall be designed to assure protection from and against the kind and extent of risk that exists at the time a change in insurance is required.

The City Manager shall notify Lessee in writing of changes in the insurance requirements. If Lessee does not deposit copies of acceptable insurance policies with City incorporating such changes within sixty (60) days of receipt of such notice, or in the event Lessee fails to maintain in effect any required insurance coverage, Lessee shall be in default under this lease without further notice to Lessee. Such failure shall constitute a material breach and shall be grounds for immediate termination of this Lease at the option of City.

The procuring of such required policy or policies of insurance shall not be construed to limit Lessee's liability hereunder nor to fulfill the indemnification provision and requirements of this Lease. Notwithstanding the policy or policies of insurance, Lessee shall be obligated for the full and total amount of any damage, injury, or loss caused by or connected with this Lease or with use or occupancy of the Premises, except to the extent caused by the active negligence or willful misconduct of City or City's officers, agents, contractors, volunteers, and employees.

21. RESERVATION OF AVIGATIONAL EASEMENT.

City hereby reserves for the use and benefits of the public, a right of avigation over the Premises for the passage of aircraft landing at, taking off, or operating from the adjacent airport operated by the County of Santa Clara. Lessee releases the City from all liability for noise, vibration, and any other related nuisance.

22. EMINENT DOMAIN.

- 22.1 If all or any part of the Premises (or the building in which the Premises are located) is condemned by a public entity in the lawful exercise of its power of eminent domain, this Lease shall cease as to the part condemned. The date of such termination shall be the effective date of possession of the whole or part of the Premises by the condemning public entity.
- 22.2 If only a part is condemned and the condemnation of that part does not substantially impair the capacity of the remainder to be used for the purposes required by this Lease, Lessee shall continue to be bound by the terms, covenants, and conditions of this Lease. However, the then monthly rent shall be reduced in proportion to the diminution in value of the Premises. If the condemnation of a part of the Premises substantially impairs the capacity of the remainder to be used for the purposes required by this Lease, Lessee may:
 - A. Terminate this Lease and thereby be absolved of obligations under this Lease which have not accrued as of the date of possession by the condemning public entity; or
 - B. Continue to occupy the remaining Premises and thereby continue to be bound by

the terms, covenants and conditions of this Lease. If Lessee elects to continue in possession of the remainder of the Premises, the monthly rent shall be reduced in proportion to the diminution in value of the Premises.

- C. Lessee shall provide City with written notice advising City of Lessee's choice within thirty (30) days of possession of the part condemned by the condemning public entity.
- 22.3 City shall be entitled to and shall receive all compensation related to the condemnation, except that Lessee shall be entitled to: (a) that portion of the compensation which represents the value for the remainder of the Lease term of any Lessee-constructed improvements taken by the condemning public entity, which amount shall not exceed the actual cost of such improvements reduced in proportion to the relationship of the remaining Lease term to the original Lease term, using a straight line approach; and (b) any amount specifically designated as a moving allowance or as compensation for Lessee's personal property. Lessee shall have no claim against City for the value of any unexpired term of this Lease.

23. POST-ACQUISITION TENANCY.

Except as otherwise set forth in Section 22.3 above, Lessee understands and agrees to waive all claims for relocation assistance and benefits under federal, state or local law.

24. DISPUTE RESOLUTION.

- 24.1 Unless otherwise mutually agreed to, any controversies between Lessee and City regarding the construction or application of this Lease, and claims arising out of this Lease or its breach shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.
- 24.2 The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Lease.
- 24.3 The costs of mediation shall be borne by the Parties equally.
- 24.4 Mediation under this section is a condition precedent to filing an action in any court. In the event of litigation arising out of any dispute related to this Lease, the prevailing party shall be entitled to recover their reasonable attorney's fees, expert witness costs and cost of suit.

25. NON-LIABILITY OF OFFICIALS AND EMPLOYEES OF THE CITY.

No official or employee of City shall be personally liable for any default or liability under this agreement.

26. NON-DISCRIMINATION

- 26.1 Non-discrimination in Lease Activities. Lessee agrees that in the performance of this Lease and in connection with all of the activities Lessee conducts on the Premises, it shall not discriminate against any employee or person because of the race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height of such person. Lessee acknowledges that is familiar with the provisions set forth in Section 2.30.510 of the Palo Alto Municipal Code relating to nondiscrimination in employment and Section 9.73 of the Palo Alto Municipal Code relating to City policy against arbitrary discrimination.
- Human Rights Policy. In connection with all activities that are conducted upon the Premises, Lessee agrees to accept and enforce the statements of policy set forth in Section 9.73.010 which provides: "It is the policy of the City of Palo Alto to affirm, support and protect the human rights of every person within its jurisdiction. These rights include, but are not limited to, equal economic, political, and educational opportunity; equal accommodations in all business establishments in the city; and equal service and protection by all public agencies of the city."

27. INDEPENDENT CONTRACTOR.

It is agreed that Lessee shall act and be an independent contractor and not an agent nor employee of City.

28. CONFLICT OF INTEREST.

Lessee shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this agreement. Lessee warrants and covenants that no official or employee of City nor any business entity in which any official or employee of City is interested: (1) has been employed or retained to solicit or aid in the procuring of this agreement; or (2) will be employed in the performance of this agreement without the divulgence of such fact to City. In the event that City determines that the employment of any such official, employee or business entity is not compatible with such official's or employee's duties as an official or employee of City, Lessee upon request of City shall immediately terminate such employment. Violation of this provision constitutes a serious breach of this Lease and City may terminate this Lease as a result of such violation.

29. MEMORANDUM OF LEASE.

Following execution of this Lease, either party, at its sole expense, shall be entitled to record a Memorandum of Lease in the official records of Santa Clara County. Upon termination or expiration of this Lease, Lessee shall execute and record a quitclaim deed as to its leasehold interest.

30. ESTOPPEL CERTIFICATE.

Lessee shall, from time to time, upon at least thirty (30) days prior written notice from City, execute, acknowledge and deliver to City a statement in writing: (i) certifying this Lease is unmodified and in full force and effect, or, if modified, stating the nature of the modification and certifying that the Lease, as modified, is in full force and effect, and the date to which the rental

and other charges, if any, have been paid; and, (ii) acknowledging that there are not to Lessee's knowledge, any defaults, or stating if any defaults are claimed, any statement may be relied upon by any prospective purchaser or encumbrance of the Property.

31. <u>LIENS.</u>

Lessee agrees at its sole cost and expense to keep the Property free and clear of any and all claims, levies, liens, encumbrances or attachments.

32. VACATING.

Upon termination of the tenancy, Lessee shall completely vacate the Property, including the removal of any and all of its property. Before departure, Lessee shall return the Premises to a good, clean and sanitary condition, reasonable wear and tear excepted. Lessee shall allow City to inspect the Property and complete a walk-through to verify the condition of the Property and its contents.

33. ABANDONMENT.

Lessee's absence from the Property for three (3) consecutive days, without prior notice, during which time rent or other charges are delinquent, shall be deemed abandonment of the Property. Such abandonment will be deemed cause for immediate termination without notice. City shall thereupon be authorized to enter and take possession and to remove and dispose of the property of Lessee or its guests without any liability whatsoever to City.

34. NOTICES.

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Palo Alto	Avenidas
Real Estate Division	Attention: President & CEO
250 Hamilton Avenue	450 Bryant Street
Palo Alto, 94301	Palo Alto, CA 94063
Phone: 650-329-2264	Phone: 650-289-5400
Fax: 650-323-8356	Fax: 650-328-0366

Notices may be served upon Lessee in person, by first class mail, or by certified mail whether or not said mailing is accepted by Lessee. Notices sent via regular mail shall be deemed given 48 hours after the same is addressed as required herein and mailed with postage prepaid. If notice is sent via facsimile, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday. These addresses shall be used for service of process.

35. <u>TIME</u>.

Time shall be of the essence in this Lease.

36. <u>AMENDMENTS</u>.

It is mutually agreed that no oral Leases have been entered into and that no alteration or variation of the terms of this Lease shall be valid unless made in writing and signed by the Parties to this Lease.

37. SIGNING AUTHORITY.

If this Lease is not signed by all Lessees named herein, the person actually signing warrants that he/she has the authority to sign for the others.

38. CAPTIONS.

The captions of the various sections, paragraphs and subparagraphs of this Lease are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

39. SURRENDER OF LEASE NOT MERGER.

The voluntary or other surrender of this lease by Lessee, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of City, terminate all or any existing subleases or subtenancies, or may, at the option of City, operate as an assignment of any and all such subleases or subtenancies.

40. <u>INTEGRATED DOCUMENT</u>.

This Lease, including any exhibits attached hereto, embodies the entire agreement between City and Lessee. No other understanding, agreements, conversations or otherwise, with any officer, agent or employee of City prior to execution of this Lease shall affect or modify any of the terms or obligations contained in any documents comprising this Lease. Any such verbal agreement shall be considered as unofficial information and in no way binding upon City. All agreements with City are subject to approval of the City Council before City shall be bound thereby.

41. WAIVER.

Waiver by City of one or more conditions of performance or any breach of a condition under this Lease shall not be construed as a waiver of any other condition of performance or subsequent breaches. The subsequent acceptance by a Party of the performance of any obligation or duty by another Party shall not be deemed to be a waiver of any term or condition of this Lease. The exercise of any remedy, right, option or privilege hereunder by City shall not preclude City from exercising the same or any and all other remedies, rights, options and privileges hereunder and City's failure to exercise any remedy, right, option or privilege at law or equity, or otherwise which City may have, shall not be construed as a waiver.

42. INTERPRETATIONS.

In construing or interpreting this Lease, the word "or" shall not be construed as exclusive and the word "including" shall not be limiting. The Parties agree that this Lease shall be fairly interpreted in accordance with its terms without any strict construction in favor of or against any other Party.

43. SEVERABILITY CLAUSE.

If any provision of this Lease is held to be illegal, invalid or unenforceable in full or in part, for any reason, then such provision shall be modified to the minimum extent necessary to make the provision legal, valid and enforceable, and the other provisions of this Lease shall not be affected thereby.

44. GOVERNING LAW.

This Lease shall be governed and construed in accordance with the statutes and laws of the State of California.

45. <u>VENUE</u>.

In the event that suit shall be brought by any Party to this Lease, the Parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara.

46. <u>COMPLIANCE WITH LAWS</u>.

The Parties hereto shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments in the performance of their rights, duties and obligations under this Lease.

47. BROKERS.

Each party represents that is has not had dealings with any real estate broker, finder, or other person, with respect to this lease in any manner. Each Party shall hold harmless the other party from all damages resulting from any claims that may be asserted against the other party by any broker, finder, or other person with whom the Indemnifying Party has or purportedly has dealt.

48. PARKING

City grants to Lessee a nonexclusive license to use twenty—five (25) parking spaces in Lot C as and four (4) exclusive parking spaces in the Paulsen Lane alley as shown in **Exhibit** E near as practical to the Premises, as specified by City Manager or designee for the accommodations and parking of automobiles by Lessee, any subtenants on the Premise and visitors to Avenidas. Lessee agrees to abide by any and all rules and parking regulation of the City for the subject parking area and the manner and mode of Lessee's use thereof.

49. AMENDMENTS. The parties acknowledge no oral agreements regarding this lease have been entered into by and that no alteration or variation of the provisions shall be valid unless

made in writing, and signed by the parties.

50. PRIOR LEASE SUPERSEDED. The prior lease between the City and Avenidas dated May 11, 1977 and any amendments thereto is hereby terminated and superseded by this Agreement.

51. <u>ATTACHMENTS TO LEASE</u>.

The following exhibits are attached to and made a part of this Agreement:

"A" - Parcel Map of Subject Property

"B" - Subject Property

"C" - Premises

"D" - Standard Insurance Requirements

"E" Parking Spaces

IN WITNESS WHEREOF, the parties have executed this Lease the day and year first above written.

CITY:

CITY OF PALO ALTO (LESSOR)

By:

City Manager or Designee

ATTEST:

-

APPROVED AS TO FORM:

Senior Asst. City Attorney

LESSEE:

Avenidas

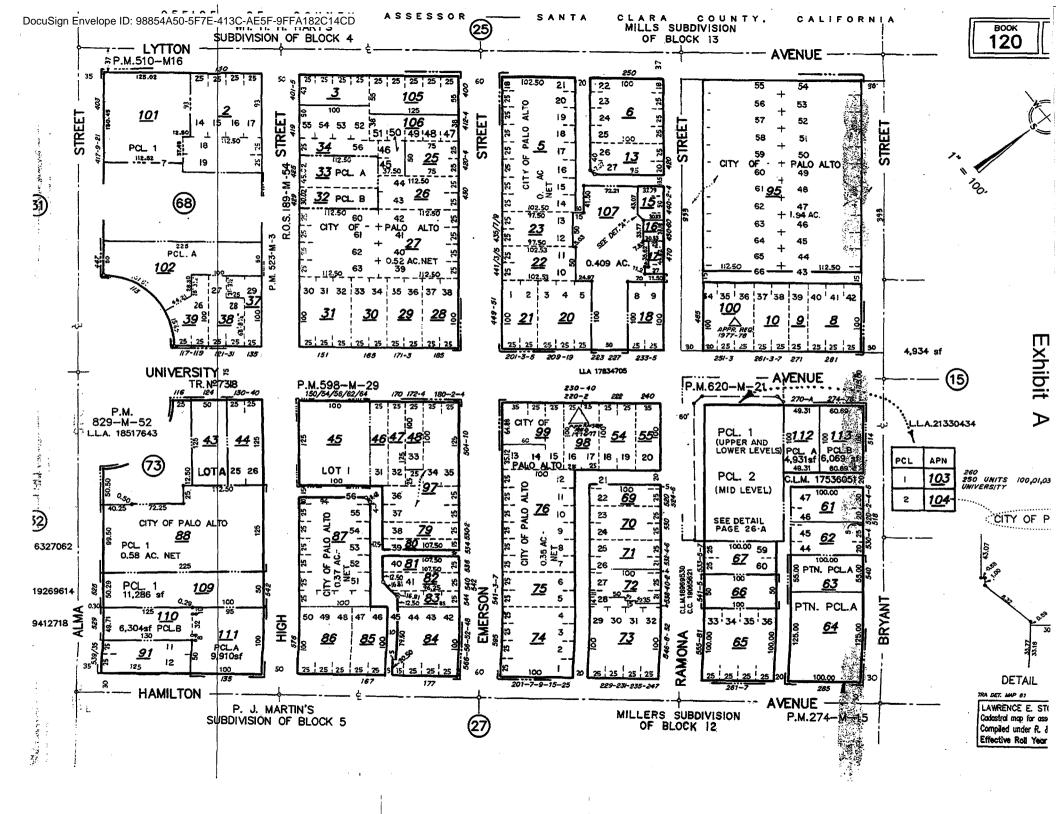
By: NILY CHILDYLLAND

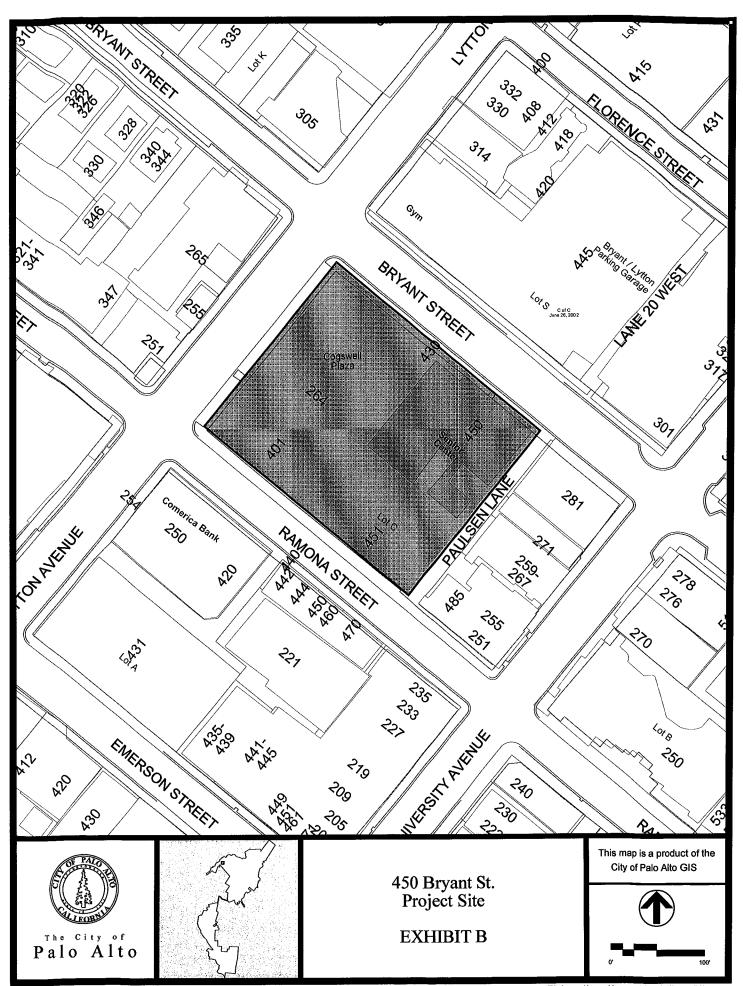
Title: President & CEO

501(c) 3 monprofit

Type of Corporation:

proganization





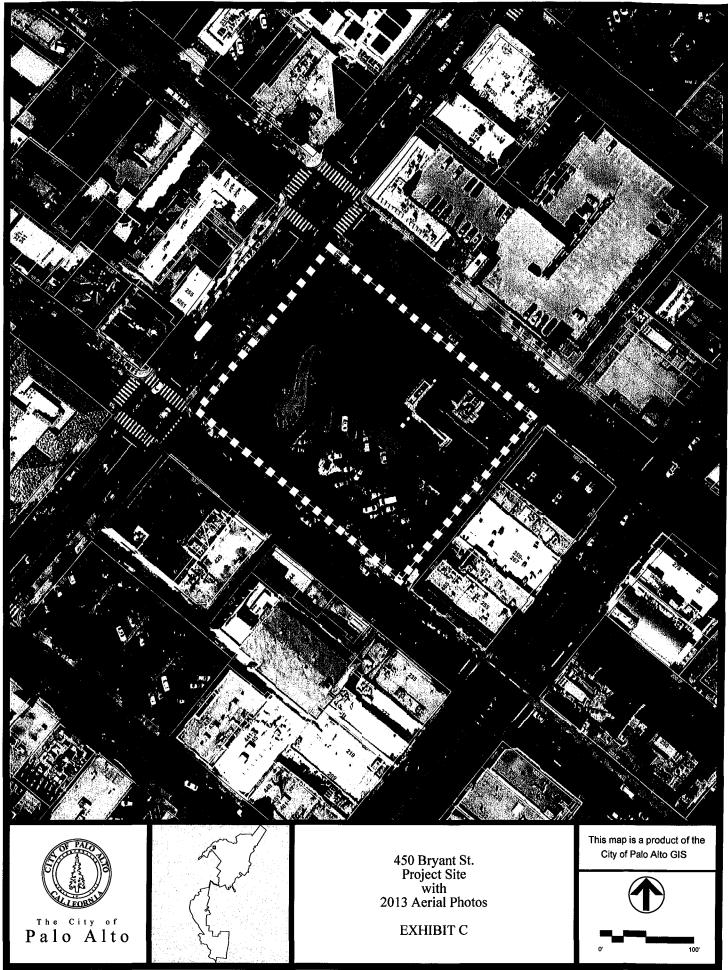


EXHIBIT D

STANDARD INSURANCE REQUIREMENTS

Insurance Requirements for Lessee:

Lessee shall purchase and maintain the insurance policies set forth below on all of its operations under this Lease at its sole cost and expense. Such policies shall be maintained for the full term of this Lease and the related warranty period (if applicable). For purposes of the insurance policies required under this Lease, the term "City" shall include the duly elected or appointed council members, commissioners, officers, agents, employees and volunteers of the City of Palo Alto, California, individually or collectively.

Coverages (RL 28.1A) S

Minimum Scope of Insurance

Coverage shall be at least as broad as:

- 1) Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
- 2) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
- Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance (for lessees with employees).
- 4) Property insurance against all risks of loss to any tenant improvements or betterments

The policy or policies of insurance maintained by Lessee shall provide the following limits and coverages:

POLICY

MINIMUM LIMITS OF LIABILITY

(1) Commercial General Liability

\$1,000,000 per each occurrence for bodily injury, personal injury and property damage

(2) Automobile Liability
Including Owned, Hired and
Non-Owned Automobiles

\$1,000,000 Combined Single Limit

(3) Workers' Compensation

Statutory

