

**RESPONSE TO COUNCIL QUESTIONS RE: 7/16/19 CITY COUNCIL AGENDA  
- Supplemental Response 2 -**

**Agenda Item #: 3**

**Title: Sunnyvale Historical Society and Museum Association's Proposed Expansion of the Sunnyvale Heritage Park Museum**

Council Question: What does the City pay annually in support of the orchard? If possible, a five-year trend information would be appreciated to show expenditures during drought years.

Staff Response: The only specific items that the City provides to the Orchard are water and electricity. The irrigation water bill is as follows:

2012 - \$21,156.62  
2013 - \$23,410.33  
2014 - \$24,066.99  
2015 - \$25,106.63  
2016 - \$28,815.42  
2017 - \$40,895.27  
2018 - \$41,707.81

There is also a domestic water line that is linked to the campus and is difficult to determine the exact usage by the Orchard. Also, electrical is billed with other meters and a specific amount is difficult to extract.

Council Question: Please provide a copy of the Orchard Heritage Park Master Plan, or a link to it. Council is being asked to consider modifications to the plan, so reviewing the current plan is important.

Staff Response: The Orchard Heritage Park Master Plan – Annotated Site Plan, **Orchard Heritage Park Master Plan and amendments** are attached.

Council Question: Could staff please double-check whether the draft minutes of the Parks and Rec Commission accurately reflect whether each member of the public spoke in favor of the museum expansion or not. Based on my spot checking, at least one member of the public (Margaret Lawson) was miscategorized.

Staff Response: Staff has reviewed the list and it doesn't appear that anyone else was miscategorized.

# Orchard Heritage Park Master Plan – Annotated Site Plan







September 24, 2002

**SUBJECT: ORCHARD HERITAGE PARK MASTER PLAN****REPORT IN BRIEF**

As a part of its Study Issues process for calendar year 2002, Council directed staff to create a Master Plan for Orchard Heritage Park. Please see Attachment A, Study Issue Paper for Orchard Heritage Park Master Plan. The Master Plan was to be completed in conjunction with the Sunnyvale Historical Society and was needed due to the growing demand for space for recreational and leisure activities such as gardening, arts, agricultural artifacts displays, etc. Proposed new uses included opportunities for education, amphitheater use, facility rentals and a museum.

This report presents for Council's consideration an Orchard Heritage Park Master Plan that details current resources, facilities and operating responsibilities; and provides guidelines for future uses, agreements and projects at the park. This Master Plan was discussed with neighbors, stakeholders and interested members of the public and staff during public meetings held February 28, 2002 and March 2, 2002. Please see Attachment B, Flier for Public Meetings.

**BACKGROUND**

In 1965, property on Remington Drive was purchased for the Sunnyvale Community Center. Please see Attachment C, Orchard Heritage Park Master Plan - Appendix A, Site Plans. At that time an Apricot orchard covered the entire property, and during development, an approximate ten-acre portion located at the south end of the parcel was set aside for unspecified future use. The Apricot trees on this ten-acre section, bordered by Crescent Avenue and Manet and Michelango Drives and the Community Center were in a state of decline until 1977 when the City entered into an Orchard Maintenance Agreement with Mr. C. J. "Charlie" Olson. The Agreement provided that Mr. Olson would be responsible for tree care, removal/replacement of approximately 400 of the 800 fruit trees, pruning, spraying and fruit picking/processing. The City would provide irrigation water with Mr. Olson retaining fruit value. This Agreement was renewed in 1992, again in 1998 and the current Agreement expires December 15, 2002. Please see Attachment C, Orchard Heritage Park Master Plan - Appendix B, Orchard Maintenance

Agreement. The orchard is now in excellent condition and discussions with Mr. Olson have been renewed regarding future maintenance of the orchard for the City.

As noted in Report to Council 92-604, in 1992 City Council designated the ten-acre site as a Special Use Site in accordance with the Open Space Sub-Element of the Sunnyvale General Plan. City Council named the site Orchard Heritage Park with intent of this designation to maintain this site as an ongoing working orchard for as long a time period as possible. Signs for Orchard Heritage Park were installed at that time. At this time City Council also conceptually approved other site improvements, such as interpretive displays to be placed in conjunction with the Sunnyvale Historical Society and without direct fiscal impacts to City operational or capital budgets.

Council reviewed Report to Council 99-237 and approved conceptual plans to construct an orchard maintenance barn. The Orchardist had used storage facilities at his orchard (located at El Camino Real and Mathilda Avenue in Sunnyvale) to meet the storage needs of Orchard Heritage Park. Development of his property resulted in the loss of a building for day to day operations of our orchard. The Council approved barn was needed to provide space for equipment, materials and staff to manage the orchard and preserve the working orchard for as long a time as possible.

Following Report to Council 00-313, City Council authorized the City Manager to enter into an agreement between the City and the Sunnyvale Historical Society for the development of interpretive exhibits (OHPIE) at Orchard Heritage Park. The exhibit and structures became a reality through the efforts of the Sunnyvale Historical Society and OHPIE was dedicated during the Sunnyvale State of the City event of May 2001.

Over the past several years staff saw a rise in the numbers of ideas for uses of the park, orchard, Arboretum and OHPIE and thought it best to consider all ideas in the context of a Master Plan. Staff recommended such an undertaking to Council. In December 2001 City Council directed Parks and Recreation Department staff to complete a Master Plan for Orchard Heritage Park in conjunction with the Sunnyvale Historical Society in calendar year 2002. Please see Attachment C, Orchard Heritage Park Master Plan.

## **EXISTING POLICY**

Creation of a management and operating Master Plan for Orchard Heritage Park, with public input and in conjunction with the Sunnyvale Historical Society, is supported in the City's General Plan as follows.

### Open Space Sub-Element:

Policy      Encourage active citizen involvement in the development and  
2.2A.1:      management of open space.

2.2A.1.d    Investigate and pursue avenues for citizen involvement in the implementation of open space programs, such as landscape plantings and park beautification activities.

Policy      Provide, develop and maintain Special Use Parks and Facilities.  
2.2C.4:

2.2C.4.c.   Provide for a balance between general recreation uses and special interest uses in parks and facilities

2.2C.4.e.   Consider the designation, development and management of an Orchard Heritage Park at the Community Center site consistent with an overall plan and in cooperation with the Sunnyvale Historical Society.

### Recreation Sub-Element:

Policy      Foster and encourage partnerships with cosponsored groups and  
6.1B.3:      outside funded groups in order to address the community's diverse recreational needs.

6.1C.2.a    Leverage available resources by pursuing co-funded and/or cooperative agreements for both expansion and maintenance of programs, facilities and services, in order to maximize benefits to the community.

6.1E.3.c.   Study the need and feasibility of specialized recreation facilities based upon community need and interest.

## **DISCUSSION**

Competition for space to take part in recreation and leisure activities has increased as the available space for such activities has decreased in Sunnyvale. Orchard Heritage Park is the only small Apricot Orchard left within our community and City Council took action in 1992 to designate the site a Special Use Facility in accordance with the Open Space Sub-Element of the City's

General Plan and name it Orchard Heritage Park. The intent of this action was to preserve the working orchard for as long a time period as possible.

Still, as demand for space to recreate has increased, numbers of community groups and persons have looked to Orchard Heritage Park for potential uses such as educational tours, agricultural artifact displays, meeting facilities, processing and sale of fruit and community gardening grounds. A Master Plan for the management of the park and a plan for determination of future uses was required. Therefore, the proposed Master Plan would provide policy guidelines for staff in managing the park and community assurance of opportunities for input as associated uses and projects are proposed in the coming years.

In completing the Master Plan staff met with representatives of the Sunnyvale Historical Society, near neighbors, co-sponsored groups and stakeholders including the Orchardist and those that work at the Community Center. Consistently, those in attendance stated that they would like to see the working orchard preserved and maintained as the highest priority.

Mr. Olson, the current Orchardist stated that he would like to continue managing the orchard but would not likely be able to do so beyond the next ten years. Retaining an Orchardist is essential to managing the orchard, as many aspects of orchard management are not compatible with typical City staffing. That is, seasonal pruning, spraying and picking/processing of fruit must be done according to the needs of the trees regardless of day of the week or time of day. City staff generally has set work hours, overtime and holiday schedules. Parks and Recreation staff are committed to finding another Orchardist for the occasion when Mr. Olson is no longer available. However, operating the orchard is not actually a profitable undertaking. Mr. Olson performs this work as a labor of love and because he owns the needed equipment and his family has a fruit stand that can sell the dried fruits. Another Orchardist may be very hard to come by.

In public meetings and during stakeholder discussions, the question was posed "What should Orchard Heritage Park look like if we are not able to maintain the working orchard?" Some neighbors stated that the orchard ought to be maintained into the future regardless of costs or ability to secure additional Orchard Maintenance Agreements. Many others said that they would prefer that this site remain an open space park with amenities and facilities sized such that large groups and team sports would not be placed at this park. Support was consistently provided for heritage-related amenities such as preservation of smaller numbers of trees, farm implement displays, heritage museum exhibits, educational tours, etc. Staff has incorporated the views of stakeholders and neighbors in completion of the Orchard Heritage Park Master Plan.

### Master Plan Overview

Attachment C, Orchard Heritage Park Master Plan represents the Plan in its entirety and provides Action Statements that ensure staff support the needs of the park into the future. Action Statements include:

1. Manage Orchard Heritage Park and its resources so as to preserve the agricultural heritage of the City of Sunnyvale.
2. Maintain a working fruit orchard throughout the largest portion of Orchard Heritage Park for as long a time period as practical within the resources made available by the City. Provide public access to Orchard Heritage Park to the greatest extent possible while meeting the goal of maintaining a working fruit orchard at the park.
3. Support and pursue cooperative agreements with community groups and persons to enable operation of Orchard Heritage Park in a cost-effective manner consistent with outcomes approved by the City Council.
4. Encourage the use of Orchard Heritage Park in educational activities of schools that serve Sunnyvale students first, and secondarily to the schools that serve students of surrounding communities.
5. Assist the Sunnyvale Historical Society per written agreements, and to the greatest extent practical, in developing a Heritage Museum facility at Orchard Heritage Park consistent with City Council direction.
6. Assist the Orchardist per written agreements, and to the greatest extent practical, in orchard operations at Orchard Heritage Park. This includes the pending construction of the Council-approved Bianchi Orchard Barn to store farm-related machinery, materials and equipment.
7. Pursue all available avenues to secure alternate Orchardist(s) to continue the working orchard for as long a time period as possible.
8. Provide public input opportunities in determining future uses of the park should it become impractical to maintain the largest portion of the park as a working fruit orchard. This process shall include public discussion, review of reports/plans by the Sunnyvale Parks & Recreation Commission and their recommendations, if any, to the City Council.

Attachment C, Orchard Heritage Park Master Plan – Appendix A, Site Plans graphically depicts planned changes for the site including Council's prior approved Orchard Barn and Heritage Museum at Orchard Heritage Park.

### "Arboretum" to "Sunnyvale Heritage Center"

Additionally, staff has considered the changing uses of the Arboretum facility within Orchard Heritage Park, the coming relocation of the Bianchi Barn to the Park and the future construction of a Heritage Museum by the Sunnyvale

Historical Society in accordance with previous Council policy. Staff believes that it would be in keeping with the theme of Orchard Heritage Park to rename the Arboretum, its associated gardens, and current and future buildings the Sunnyvale Heritage Center. Thereby adding emphasis to the City's desire that the focus of this facility be the preservation of Sunnyvale's history and agricultural heritage.

The proposed name change could also limit confusion that currently exists as visitors come to the area anticipating the opportunity to view a significant collection of specimen trees. According to the New American Heritage Dictionary, third edition, the definition of arboretum is: a place where an extensive variety of woody plants are cultivated for scientific, educational, and ornamental purposes. Such is not the case as the Arboretum does not have such a collection and does not meet the definition of an arboretum in this regard. With the proposed name change visitors would come to the Sunnyvale Heritage Center and would find a great deal of information and facilities dedicated to preserving the heritage of the community.

### **FISCAL IMPACT**

There is no fiscal impact associated with approving the recommended Orchard Heritage Park Master Plan or changing the name of the Arboretum to the Sunnyvale Heritage Center. Two projects referenced in the Master Plan (the relocation of the Bianchi Barn and the development of a Sunnyvale Historical Museum) have already had specific funding approved by Council. This Master Plan does not seek to increase that funding or to recommend that Council fund any other specific project. Neither does this Master plan obligate Council to any future fiscal impact. Should an existing project require additional funding or a new project be created in the future, staff will return to Council and provide opportunities for additional public input in accordance with standard City practices.

### **PUBLIC CONTACT**

Neighborhood Input public meetings were conducted Thursday, February 28, 2002 and Saturday, March 2, 2002 at the Arboretum building. Please see Attachment B, Flier for Public Meetings.

The Parks and Recreation Commission held a public hearing on this matter at its regular meeting August 28, 2002. Staff presented the Draft Report to Council, Commissioners questions were satisfactorily answered and Commission unanimously recommended that Council approve the attached Orchard Heritage Park Master Plan with its associated Goals and Action Statements, including the renaming of the "Arboretum" to the "Sunnyvale Heritage Center."



## **ALTERNATIVES**

1. Approve the attached Orchard Heritage Park Master Plan with its associated Goals and Action Statements, including the renaming of the "Arboretum" to the "Sunnyvale Heritage Center."
2. Do not approve the attached Orchard Heritage Park Master Plan with its associated Goals and Action Statements, including the renaming of the "Arboretum" the "Sunnyvale Heritage Center."
3. Other action as determined by Council.

## **RECOMMENDATION**

Staff recommends Alternative No. 1.

Prepared by:



Curtis Black  
Superintendent of Parks

Reviewed by:



Robert A. Walker  
Director, Parks and Recreation

Approved by:



Robert S. LaSala  
City Manager

5005 VNE -0 6 3: 05  
CITY CLERK'S OFFICE  
CITY OF SUNNYVALE, CA

**Attachments**

- A. Study Issue Paper, Orchard Heritage Park Master Plan
- B. Flier for Public Meetings held February 28, 2002 and March 2, 2002
- C. Orchard Heritage Park Master Plan

**ATTACHMENT A**

**STUDY ISSUE PAPER  
ORCHARD HERITAGE PARK MASTER PLAN**



NUMBER PRD-7**PROPOSED COUNCIL STUDY ISSUE**For Calendar Year: 2002New ☒ X

Previous Year (below line/defer)

**Issue Title:** Develop Master Plan for the Orchard Heritage Park Site**Lead Department:** Parks and Recreation**General Plan Element or Sub-Element:** Open Space Sub-Element**1. What are the key elements of the issue? What precipitated it?**

The Orchard Heritage Park is a ten acre apricot orchard surrounded by the Orchard Heritage Park Interpretive Exhibit and the City's Arboretum and surrounding gardens. Requests to use these properties are increasing and should be explored in the context of a Master Plan for all three areas, sensitive to adjacent sites as well. (The Community Center and New Older Adult Center.) This Study would provide a Master Plan in cooperation with the Sunnyvale Historical Society as noted in the City's General Plan (see Policy section C.4.e below) for the use and development of this area so it will meet the needs of the Sunnyvale Community. Such uses include classroom use for local school programs, general use of the amphitheater for Community programs, rental of the Arboretum Building and maintenance of the gardens and Orchard Heritage Park. Development of the Master Plan would necessitate a review of current and future uses of this area as well as a plan to develop it to accommodate these uses.

**2. How does this relate to the General Plan or existing City Policy?**

POLICY C.4: Provide, develop and maintain Special Use Parks and Facilities.

C.4.c. Provide for a balance between general recreation uses and special interest uses in parks and facilities.

C.4.e. Consider the designation, development and management of an Orchard Heritage Park at the Community Center site consistent with an overall plan and in cooperation with the Sunnyvale Historical Society.

**3. Origin of issue:****Councilmember:** \_\_\_\_\_**General Plan:** \_\_\_\_\_**Staff:** Parks and Recreation Department



**Board or Commission:**

|                         |                      |
|-------------------------|----------------------|
| Arts                    | Housing & Human Svcs |
| Bicycle Advisory        | Library              |
| Bldg. Code of Appeals   | Parks & Rec.         |
| CCAB                    | Personnel            |
| Heritage & Preservation | Planning             |

**Board / Commission Comment:**

Parks & Recreation Board / Commission ranked 2 of 4

4. Multiple Year Project? No Expected Year of Completion 2002

5. Estimated work hours for completion of the study issue.

(a) Estimated work hours from the lead department 150

(b) Estimated work hours from consultant(s): 80

(c) Estimated work hours from the City Attorney's Office: 10

(d) List any other department(s) and number of work hours:

Department(s): \_\_\_\_\_  
\_\_\_\_\_

Total Estimated Hours: 240

6. Expected participation involved in the study issue process?

(a) Does Council need to approve a work plan? No

(b) Does this issue require review by a Board/Commission? Yes

If so, which Board/Commission?

Parks and Recreation

(c) Is a Council Study Session anticipated? No

(d) What is the public participation process?

- Will include input from Co-sponsored Clubs such as the Sunnyvale Historical Society and the Sunnyvale Garden Club
- Parks and Recreation Commission Public Hearings
- City Council Public Meeting

**7. Estimated Fiscal Impact:**

|                            |                |
|----------------------------|----------------|
| Cost of Study              | <u>\$8,000</u> |
| Capital Budget Costs       | <u>\$</u>      |
| New Annual Operating Costs | <u>\$</u>      |
| New Revenues or Savings    | <u>\$</u>      |
| 10 Year RAP Total          | <u>\$8,000</u> |

**8. Staff Recommendation**

**X Recommended for Study**

**Against Study**

**No Recommendation**

**Explanation of Staff Recommendation (unless No Recommendation)**

The development of a Master Plan for this site will provide a clear direction and a plan to develop and maintain this area now and in the future so that it better supports the educational and recreational needs of the Community. The master plan is the first step to provide this guideline. Actions after the plan is complete may include proposals for future capital projects to support the activities described in the plan, and policies will be developed to support the use of the Orchard Heritage properties- including the Orchard, the OHPIE exhibit and the Arboretum.

*Robert A. LaSala*  
**City Manager**

10-31-01

**Date**



**ATTACHMENT B**

**FLIER FOR PUBLIC MEETINGS  
HELD FEBRUARY 28, 2002 AND MARCH 2, 2002**







## OPPORTUNITY FOR INPUT



**The Parks and Recreation Department  
Is Developing:**

### **A Master Plan for Orchard Heritage Park**

**(Including Arboretum and Orchard Heritage Park Interpretive Exhibit)**



**As a near neighbor, your input is very important to us. Please plan to come and meet with us for a brief presentation and opportunities for comment on:**

**★ Thursday, February 28<sup>th</sup> 1:00 – 3:00 p.m.**

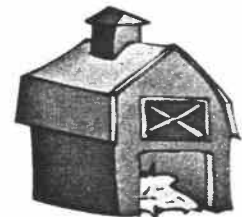
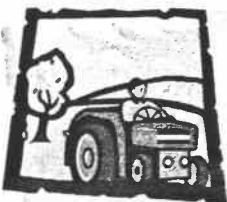
**★ Saturday, March 2<sup>nd</sup> 1:00 – 3:00 p.m.**

**Arboretum Building  
Community Center, 550 Remington Drive**

***Note: If you are unable to attend these meetings and have questions or would like to provide input and/or be put on a mailing list for future meeting notifications, please call the Parks Division at 730-7506 or***

***contact the Superintendent of Parks at***

***cblack@ci.sunnyvale.ca.us***





**ATTACHMENT C**

**ORCHARD HERITAGE PARK MASTER PLAN**



# **ORCHARD HERITAGE PARK**

## **MASTER PLAN**

### **TABLE OF CONTENTS**

|      |   |    |
|------|---|----|
| I.   | Message from the Director of Parks and Recreation | 1  |
| II.  | History of the Orchard Heritage Park Properties   | 3  |
| III. | Goals and Action Statements                       | 5  |
| IV.  | Resources and Facilities                          | 7  |
| V.   | Management Plan                                   | 11 |
| VI.  | Orchard Preservation Plan                         | 13 |
| VII. | Project Planning                                  | 15 |

#### **Appendices:**

- A. Orchard Heritage Park Site Plan
- B. Orchard Maintenance Agreement
- C. O.H.P.I.E. Maintenance Agreement
- D. S.H.S. Agreement





## **I. Message from the Director of Parks & Recreation**

This Master Plan is the first undertaken for one specific park in Sunnyvale. This effort has been initiated as the number of agricultural acres has diminished and the need to preserve our agricultural heritage while balancing community recreation needs has grown more prominent. Orchard Heritage Park contains the last small working Apricot Orchard in Sunnyvale. Shrinking open space and increasing demands for recreational space have required that the community work together creating this plan for today and for the future.

It is important to acknowledge members of the community that, working together with staff, have given of their time and resources to help make this plan complete.

- The members of Sunnyvale City Council - for direction and energy in providing the community exciting additions to the open space and park system and new opportunities for leisure and recreation activities.

|                     |                |
|---------------------|----------------|
| Fred Fowler,        | Mayor          |
| Julia Miller,       | Vice Mayor     |
| Manuel Valerio,     | Council Member |
| Patricia Vorreiter, | Council Member |
| Jack Walker,        | Council Member |
| Tim Risch,          | Council Member |
| John Howe,          | Council Member |

- The Sunnyvale Parks and Recreation Commission – for conducting and attending public meetings; reviewing information and providing essential recommendations that have strengthened this plan.

|                 |              |
|-----------------|--------------|
| Joe Manfrey,    | Chair        |
| Jeffrey Arnett, | Vice Chair   |
| Robyn Nixon,    | Commissioner |
| Raymond Pole,   | Commissioner |
| VACANT,         | Commissioner |

- The near neighbors of Orchard Heritage Park – for giving of their time and creativity, providing input regarding the current Orchard, Museum, Barn and Gardens, and what the future may hold for Orchard Heritage Park.
- The Sunnyvale Historical Society, its President, Jan Camp and essential support from member Laura Babcock – for providing input and energy throughout the steps culminating in construction of the Orchard Heritage Park Interpretive Exhibit (OHPIE), for energizing the community to the need for a

Heritage Museum and commitment to join with the City in bringing one to this site and for conducting research for the "History" portion of this plan found in Section II.

- Mr. C. J. "Charlie" Olson – our Orchardist who provided essential input throughout the planning and development of Orchard Heritage Park projects and provided much needed initiative for action. Without Charlie's efforts these many years, Sunnyvale would not likely have a working fruit orchard to preserve.
- The Sunnyvale Garden Club, its President Ms. Nellie Durrand who provided collaborative ideas and assistance in site evaluations and plans for both community gardens and garden renovations at Heritage Center.

This Master Plan for Orchard Heritage Park is a working document to provide the community, its citizens and partners a guideline for operations, maintenance and development of the park. It is provided in collaboration with members of the community whose expressed interest is to preserve the agricultural and historical heritage of the City of Sunnyvale. It has been a privilege for our staff to work with the community on this exciting project and we are committed to managing the park and its various facilities in accordance with this plan, returning to the community for input as the future years unfold.



Robert A. Walker,  
Director of Parks and Recreation

## **II. History of the Orchard Heritage Park Properties**

Orchard Heritage Park is located at 550 East Remington Drive. Also located at this 31-acre parcel are the Community Center and Ballroom; Creative Arts and Theater Center; the Sports Center and Gymnasium; and the Arboretum and Orchard Heritage Park Interpretive Exhibit (OPHIE). Soon the Sunnyvale Senior Center will also share this location with its grand opening scheduled for summer of 2003. *Please see Appendix A., Site Plans.*

A 1965 Bond Issue funded the City purchase of a portion of this site from the Vidovitch family, a well-known farming family in the valley. Additional land was secured through a land swap with the Cupertino Elementary School District to complete the acreage seen today.

Orchard Heritage Park occupies the southern-most portion of the Community Center property. The Park is approximately 10 acres in size and bordered to the south by Crescent Avenue, to the west by Manet Drive and to the east by Michelango Drive.

When this land was purchased the entire area of Sunnyvale was planted in fruit trees and the streets had not yet been constructed. The City was able to plan the site and its surrounding residential and business developments allowing ample opportunities for public involvement in the planning processes.

The Community Center was constructed first and was dedicated in a public ceremony on March 17, 1973. The condition of the ten-acre portion, planted in Apricots had fallen into a state of decline by that time and the City sought an Orchardist that could maintain the Apricot trees until a date that the final use of this site could be determined.

In 1977 the City secured an Orchard Maintenance Agreement with Mr. C. J. "Charlie" Olson to maintain the ten-acre orchard. Since that date Mr. Olson has been responsible for tree care, removal/replacement of approximately 400 of the 800 fruit trees, pruning, spraying and fruit picking/processing. The City provides irrigation water and Mr. Olson retains the fruit value. *Please see Appendix B, Orchard Maintenance Agreement.* The current Agreement expires December 15, 2002 and staff is working with the Orchardist to renew it prior to that date. Copies of the Agreement are available from the Department of Parks and Recreation.

In consideration of Report to Council 92-604, Sunnyvale City Council designated the ten-acre orchard as a Special Use Site in accordance with the Open Space Sub-Element of the Sunnyvale General Plan. City Council named the site Orchard Heritage Park with intent to maintain this site as a working orchard for as long a time period as possible. The Parks and Recreation Department installed

the first signs officially noting Orchard Heritage Park at the southwest and southeast corners of the orchard (Michelangelo Drive and Manet Drive intersections with Crescent Avenue). At this time, and again in 1998, the City Council approved five-year extensions of the orchard maintenance agreement between the City and C. J. Olson. The current term of the Agreement ends December 15, 2002.

In 1999 City Council reviewed Report to Council 99-237. This report noted that the Orchardist had sold his nearby orchard properties and no longer had a barn to store equipment or materials necessary to maintain Orchard Heritage Park. Staff recommended and Council approved conceptual plans to construct a storage barn facility at Orchard Heritage Park. The barn was planned to accommodate tractors, other orchard equipment and materials to facilitate orchard maintenance, thereby, extending the potential lifeline of the working orchard. A capital project for this purpose was included in the fiscal year 2000-01 Sunnyvale Resource Allocation Plan.

Acting on Report to Council 00-313, City Council authorized the City Manager to enter into an agreement between the City and the Sunnyvale Historical Society (SHS) for the development of interpretive exhibits at Orchard Heritage Park. Orchard Heritage Park Interpretive Exhibits was constructed by the Society and provides the community a photo and written display of the agriculture-oriented life in Sunnyvale's early years.

In May 2002, City Council reviewed Report to Council 02-151 and approved the concept of partnership with the Sunnyvale Historical Society to provide a Historical Museum at the site as a part of Orchard Heritage Park.

As detailed in report to Council 02-218, presented on June 25, 2002, City Council gratefully accepted from Ms. Clara Bianchi the donation of a 1918 Redwood Barn with added funding for its relocation and provision for its future maintenance. Ms. Bianchi donated this barn to Sunnyvale on behalf of her family both to preserve the Barn and to make note of the contributions of Bianchi Brothers Farms, Domenic Bianchi and Santino Bianchi to the community. The Bianchi family has farmed in this valley for over 100 years.



### **III. Goals and Action Statements**

Creation of a Master Plan for the management, operation and development of Orchard Heritage Park, with public input and in conjunction with the Sunnyvale Historical Society, is supported in the City's General Plan as follows.

#### **Open Space Sub-Element:**

Policy 2.2A.1: Encourage active citizen involvement in the development and management of open space.

2.2A.1.d Investigate and pursue avenues for citizen involvement in the implementation of open space programs, such as landscape plantings and park beautification activities.

Policy 2.2C.4: Provide, develop and maintain Special Use Parks and Facilities.

2.2C.4.c. Provide for a balance between general recreation uses and special interest uses in parks and facilities

2.2C.4.e. Consider the designation, development and management of an Orchard Heritage Park at the Community Center site consistent with an overall plan and in cooperation with the Sunnyvale Historical Society.

#### **Recreation Sub-Element:**

Policy 6.1B.3: Foster and encourage partnerships with cosponsored groups and outside funded groups in order to address the community's diverse recreational needs.

6.1C.2.a. Leverage available resources by pursuing co-funded and/or cooperative agreements for both expansion and maintenance of programs, facilities and services, in order to maximize benefits to the community.

6.1E.3.c. Study the need and feasibility of specialized recreation facilities based upon community need and interest.

As noted above the City's General Plan contains goals that are wide in scope. These goals provide information to citizens and community groups as well as assurance that those areas and issues that are of greatest concern will be addressed.

More specific Action Statements have been developed in conjunction with these goals to provide staff detailed direction in managing Orchard Heritage Park. Should Council approve this Master Plan, the following Action Statements would be incorporated into the City's Open Space Sub-Element:

**Action Statements:**

1. Manage Orchard Heritage Park and its resources so as to preserve the agricultural heritage of the City of Sunnyvale.
2. Maintain a working fruit orchard throughout the largest portion of Orchard Heritage Park for as long a time period as practical within the resources made available by the City. Provide public access to Orchard Heritage Park to the greatest extent possible while meeting the goal of maintaining a working fruit orchard at the park.
3. Support and pursue cooperative agreements with community groups and persons to enable operation of Orchard Heritage Park in a cost-effective manner consistent with outcomes approved by the City Council.
4. Encourage the use of Orchard Heritage Park in educational activities of schools that serve Sunnyvale students first, and secondarily to the schools that serve students of surrounding communities.
5. Assist the Sunnyvale Historical Society per written agreements, and to the greatest extent practical, in developing a Heritage Museum facility at Orchard Heritage Park consistent with City Council direction.
6. Assist the Orchardist per written agreements, and to the greatest extent practical, in orchard operations at Orchard Heritage Park. This includes the pending construction of the Orchard Barn to store farm related machinery, materials and equipment.
7. Pursue all available avenues to secure alternate Orchardist(s) to continue the working orchard for as long a time period as possible.
8. Provide public input opportunities in determining future uses of the park should it become impractical to maintain the largest portion of the park as a working fruit orchard. This process shall include public discussion, review of reports/plans by the Sunnyvale Parks & Recreation Commission and their recommendations, if any, to the City Council.

## **IV. Resources and Facilities**

Orchard Heritage Park contains the following resources and facilities.

### **Fruit Orchard**

The Orchard consists of approximately 800 Apricot trees that vary in age from less than one year old to nearly twenty-five years of age. Additionally, the orchard has a simple irrigation system, two park signs (see below) and several entrance areas. In the future, portions of this area could also be used to display tractor implements, wagons and agricultural artifacts.

### **Orchard Barn**

The Orchard Barn has been approved by the City Council and will be used on a daily basis by the Orchardist to house equipment and materials related to operations of the orchard. The barn originally constructed in 1918, was purchased along with orchard properties by the Bianchi family; and, was donated to the City by Ms. Clara Bianchi in 2002.

Should the barn someday cease to be used for this purpose, staff would explore its potential uses including, but not limited to:

- Agriculture interpretive exhibits
- Museum Storage
- Recreation Services Storage
- Recreation or Leisure Services

Maintenance and repairs of the Barn are the ongoing responsibility of the Superintendent of Facilities Management in accordance with written agreements.

### **Sunnyvale Heritage Center (formerly the "Arboretum")**

Sunnyvale Heritage Center is the name for the buildings, gardens and structures at the north end of Orchard Heritage Park. This area was previously named the Arboretum, but has changed in use and grown in significance to the community over the years. It is not, by definition, an Arboretum; that is, a place where an extensive collection of woody plants are cultivated for scientific, educational, and ornamental purposes. Such is not the case as no collection exists and this area therefore, is not currently an Arboretum.

This is home to the Sunnyvale Garden Club whose members are responsible for planting and maintenance of several of the gardens while Parks Division staff maintain the larger portion of the site. The Sunnyvale Historical Society has completed one major project here (OHPIE) and looks forward to more (see below). A significant piece of public art (The Murphy Street Scene) has been placed here along with various items of historical, agricultural significance including a tractor with tractor implements and an orchard wagon. Many

important public events have been held here including State of the City Events, Holiday Celebrations and Special Events. The public also hosts many events such as weddings and birthday parties with reservations that are provided through Leisure Services staff of the Parks and Recreation Department. ***Within this Master Plan, staff proposes changing the name of this area from "Arboretum" to "Sunnyvale Heritage Center".***

**Sunnyvale Heritage Center** contains the following components:

***Orchard Heritage Park Interpretive Exhibit (OHPIE)***

The Orchard Heritage Park Interpretive Exhibit was designed and constructed by the Sunnyvale Historical Society with approval of the City Council. It is located at the northeast corner of the park, on the west side of the Multi-Purpose Building. OHPIE is an interpretive display of photos and information related to the early agricultural heritage of the Sunnyvale community. The structure is open and replicates the outline of a barn providing shade and protection for the exhibits. Adjacent to the barn-like structure is a small amphitheater useful in public presentations or educational instruction for school-aged children and adults alike. Maintenance and repairs of OHPIE are the ongoing responsibility of the Superintendent of Parks. Agricultural artifacts owned by the Sunnyvale Historical Society shall be maintained by the Society in accordance with written agreements. Please see Appendix C., OHPIE Maintenance Agreement.

***Heritage Museum***

Space has been reserved at the Sunnyvale Heritage Center for a new building to be constructed by the Sunnyvale Historical Society to house the Heritage Museum.

The building has not yet been designed, but is to provide space for artifacts, exhibits, meeting and conference rooms as well as storage and a management office. This structure will likely replicate the architecture of early Sunnyvale and may be a two-story structure to make best use of the available space.

Maintenance and care of the Heritage Museum will be provided in accordance with a written agreement between the City of Sunnyvale and the Sunnyvale Historical Society. This maintenance/use agreement is in the process of being developed, will be presented to Council for consideration and, upon Council approval, will be included in this Master Plan. Space has been provided (Appendix D) for attachment to this Master Plan once it has been approved.

### ***Multi-Purpose Building***

The Multi-Purpose Building is available for public rental through Leisure Services Registration/Reservations staff at the Community Center. It is located next to OHPIE and adjacent to the gardens of Sunnyvale Heritage Center. This building is useful for meetings, school groups and City staff meetings. Many members of the public have reserved this building in the past for special events such as birthdays and weddings. Maintenance and repairs of the Multi-Purpose Building are the ongoing responsibility of the Superintendent of Facilities Management.

### ***Gardener's Workshop***

The Gardener's Workshop is programmed by the City. It is used by City staff and currently serves the needs of co-sponsored Sunnyvale Garden Club and Leisure Services staff. It is a sturdy workshop where plants may be potted; signs or posters painted and small construction projects can take shape. Maintenance and repairs of the workshop are the ongoing responsibility of the Superintendent of Facilities Management.

### ***Maintenance Building***

The maintenance building houses the landscape equipment and crew that perform grounds and landscape maintenance tasks for the Community Center. Maintenance and repairs of the building are the ongoing responsibility of the Superintendent of Facilities Management.

### ***Public Art***

"The Murphy Street Scene", by John Battenberg is a larger than life-scale sculpture in iron depicting family and farm life in early, agricultural Sunnyvale.

Previously located at the end of Murphy Street, adjacent to Washington Street, the large blue metal sculpture was commissioned by the City of Sunnyvale in 1988. Bay area artist John Battenberg created the piece specifically for Sunnyvale and its rich agricultural legacy. The artist created a "cut out" design that allows the viewer to look beyond the sculpture to the orchard and distant mountains.

The Superintendent of Cultural Arts manages this sculpture, and all public art in Sunnyvale.

### **Orchard Heritage Park Signage**

The Parks Division is responsible for the care and replacement of signs currently placed at Orchard Heritage Park. Additional signage may be placed as necessary throughout the Park with the approval of the Director of Parks and Recreation. Such additional signage will be maintained either by the Parks Division or by another entity in accordance with written agreements.

### **Gardens**

During public meetings prior to and during completion of this Master Plan, residents have requested consideration of community garden plots at park and open space sites. Therefore, gardens are planned for the park. They will be managed administratively by the Department of Parks and Recreation. Their specific location within Orchard Heritage Park has not been determined. They may be available for members of the community that do not have space available to grow vegetable and/or flower plants at their homes. However, senior gardens will likely have priority for use. These gardens will provide opportunities for senior residents to continue gardening as they move to the new Senior Center at the adjacent Community Center (garden plots have been available to senior gardeners for many years at the previous Senior Center). Actual space available for gardening will be determined such that gardening activities will not interfere with orchard operations.

#### **Note:**

The locations of each of the above resources and facilities of Orchard Heritage Park (except gardens) are noted on site plans in Appendix A.

## **V. Management Plan**

Management of Orchard Heritage Park, and Sunnyvale Heritage Center within the Park, shall be provided by the Parks and Recreation Department in collaboration with various user groups, (e.g., Sunnyvale Historical Society, the Orchardist, and other community groups of Sunnyvale). All areas of the Park shall be managed in accordance with City Goals, Policies and Action Statements as noted above and additionally as City Council may approve in the future.

Responsibility and accountability for management of Orchard Heritage Park will be provided as follows.

### **General Management of Orchard Heritage Park**

The Superintendent of Parks shall have responsibility for maintenance and management of the Park as a whole. The Superintendent shall manage related operating and capital budgets and direct regular maintenance activities and special projects for the Park.

### **Orchard Management**

In accordance with the current Orchard Maintenance Agreement, the Orchardist shall have responsibility for the care and maintenance of the fruit orchard. The Orchardist shall ensure the safe keeping of the fruit trees and manage the site to provide the best possibility for sustaining a working orchard at this site.

### **Sunnyvale Heritage Center**

The Superintendent of Parks shall manage the grounds and structures of Sunnyvale Heritage Center, while the Superintendent of Cultural Arts shall provide for Public art located here and the Superintendent of Facilities Management shall repair and maintain the buildings of the Center.

### **Reservations and Activity Registrations**

All reservations and registration for any Parks and Recreation program shall be provided through staff of the Leisure Services, Reservations and Registration located at the Community Center.

### **Gardens**

As available, an area of Orchard Heritage Park shall be provided for community gardens. Flowers and/or vegetables may be grown by gardeners that have

registered and provided a gardener's fee. Priority of use, numbers of plots available and gardener's fees shall be determined administratively by the Department of Parks and Recreation. Garden plots shall be of size and shape to make the best use of available space. The total number of gardens and space provided for gardening shall be limited to ensure that gardens do not interfere with day to day operations of the fruit orchard or facilities of Orchard Heritage Park. Care of the garden plots will be the responsibility of the gardeners. Water will be provided, however all plant materials, fertilizers and other garden products must be provided by the gardeners. One set of simple garden tools (hoe, rake, shovel, etc.) will be provided by the City and stored on site. Additional and/or special tools, owned by gardeners may not be stored on site.



## **VI. Orchard Preservation Plan**

### **Orchard Management Overview**

A primary goal of the management of Orchard Heritage Park is the preservation of the ten-acre working Orchard for as long a time period as possible. Currently the orchard is made up of Apricot trees; however, many other types of fruit and nut trees would also be suitable at this location. As market prices fluctuate and demand for fruit changes, farmers occasionally remove one crop for different, more favorable produce. Therefore, the current Apricot trees could give way to Cherry, Plum, Almond or other trees at some future date in support of efforts to keep a working orchard in place. The City will maintain an orchard at this site within the resources available and with direction of the Sunnyvale City Council. Currently the orchard has been managed through a long-term Orchard Maintenance Agreement with an Orchardist to remove/plant trees, water, spray, prune and pick/process the fruit of the trees.

This Agreement is a practical solution to the dilemma that the City would face should the need arise to provide for these tasks with City employed staff. In simple terms, the life of an orchard requires continuous care on a day to day basis. Spraying the trees and picking/processing the fruit must be done without concern for days of the week and/or times of day. Work in the orchard can be very labor intensive for portions of the seasons requiring many transient workers for pruning trees and picking fruit at just the right moment.

On the other hand, City work classifications lend themselves to a specific weekly schedule with predictable work hours, overtime and holidays. Managers would be hard pressed, in the absence of an agreement with an Orchardist, to provide for the continuing labor needs of the working orchard. Additionally, an Orchardist acquires knowledge and becomes successful through many years (decades) of managing orchards. Parks and open space managers also have special knowledge of horticulture and property management. However, these managers would not be adequately prepared to protect the trees and orchard in the absence of an Orchardist and Orchard Maintenance Agreement.

Therefore, the Parks and Recreation Department will endeavor, as a first step in orchard preservation, to maintain continuous, long term agreements with experienced and successful Orchardist(s) for the orchard at Orchard Heritage Park.

### **Current Orchard Management**

Currently the working orchard is managed through an Orchard Maintenance Agreement with Orchardist, Mr. C. J. "Charlie" Olson. This agreement was first

negotiated with Mr. Olson in 1977 and has been renegotiated and renewed throughout the years to date. *Please see Appendix B., for details of this Agreement.* This Agreement expires December 15, 2002 and staff is working with the Orchardist to renew it prior to that date. Copies of the Agreement are available from the Department of Parks and Recreation.

The Superintendent of Parks is liaison to the Orchardist and coordinates certain activities that support the Agreement. These activities include, but are not limited to:

- Customer service and customer concern response;
- Placement and maintenance of the Orchard Heritage Park signs;
- Provide payment for orchard water and utilities;
- Provide weed control at the perimeter of the property where the orchard and adjacent sidewalks meet;
- Scheduling and removal of the green waste from orchard pruning; and,
- Maintenance of the backflow device and irrigation main line to the orchard.

## **VII. Future Project Planning**

Orchard Heritage Park has seen many changes over the past decades. New projects (OHPIE) have been constructed recently and artifacts (tractor, wagon and implements) have been placed as well as a significant piece of public art (Murphy Street Scene). The coming years will see the addition of two more significant structures as first the Orchard Barn, and then the Heritage Museum are constructed. It is important to plan for projects regardless of the size or type proposed. The two main types of future projects and their related planning procedures follow.

### **Park Maintenance and Infrastructure Projects**

Throughout the life of a park or facility, it is necessary to repair, replace and/or update portions of facilities. In Sunnyvale, these types of projects are provided through the Infrastructure Fund with City Council approval and are directly managed by the Parks and Recreation Department or indirectly with the assistance of the Department of Public Works. These projects tend not to alter the uses of facilities or structures, but provide the necessary replacement of roofs, renovation of park areas, replacement of trees or gardens, irrigation systems, walkways, etc. These projects are generally conducted without great impact to the community and with written notice limited to those who use the facility or park. Occasionally, this type of project may require a Building Permit and result in public posting and/or written notice of an intended project. It is the intention of the Parks and Recreation Department to continue to complete this type of project in this manner.

### **Capital Improvement Plan Projects**

Capital Improvement Plan (CIP) projects tend to be those that provide new uses to existing facilities and/or new structures or facilities to the community. This type of project requires approval of City Council and the involvement and input of neighbors, the public, stakeholders such as co-sponsored groups and partners, Boards and Commissions and staff.

Previous to and during the completion of this Master Plan, staff received strong support from near-neighbors and stakeholders for the construction of an Orchard Barn, a Heritage Museum and community flower and/or vegetable gardens at Orchard Heritage Park. During these public input opportunities there also was very strong support for maintaining the working orchard for as long a time period as possible. Many neighbors stated that the orchard ought always to be on this site regardless of costs or limitations.

When the question was posed "What ought we do in the future if we can no longer provide and care for a working orchard?" neighbors and stakeholders favored a passive rather than an active open space. Consistently, neighbors preferred limiting the size and type of facilities such that very large groups and/or team sports activities would not be placed at this site. These same groups felt that the Park ought to retain its heritage focus even if it can not retain a working orchard. Significant changes to Orchard Heritage Park, its resources and facilities, in the form of new CIP projects will not occur without prior public input and involvement.

It is the intention of the Parks and Recreation Department to search out input from all interested parties and provide significant opportunities for public input in the future as CIP projects are planned and before project decisions are presented to City Council for consideration and further public input.

**APPENDIX A**

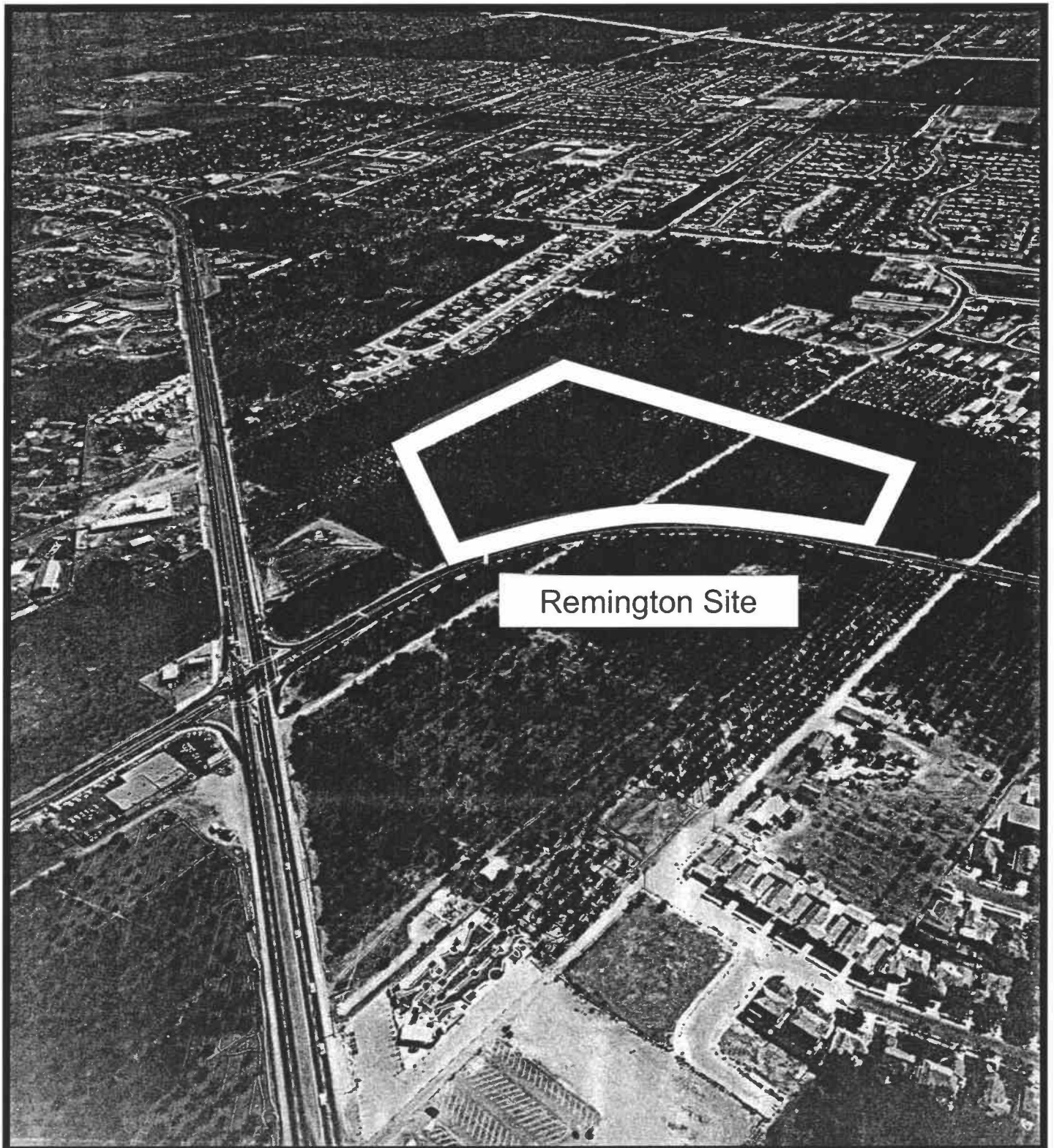
**ORCHARD HERITAGE PARK SITE PLAN**



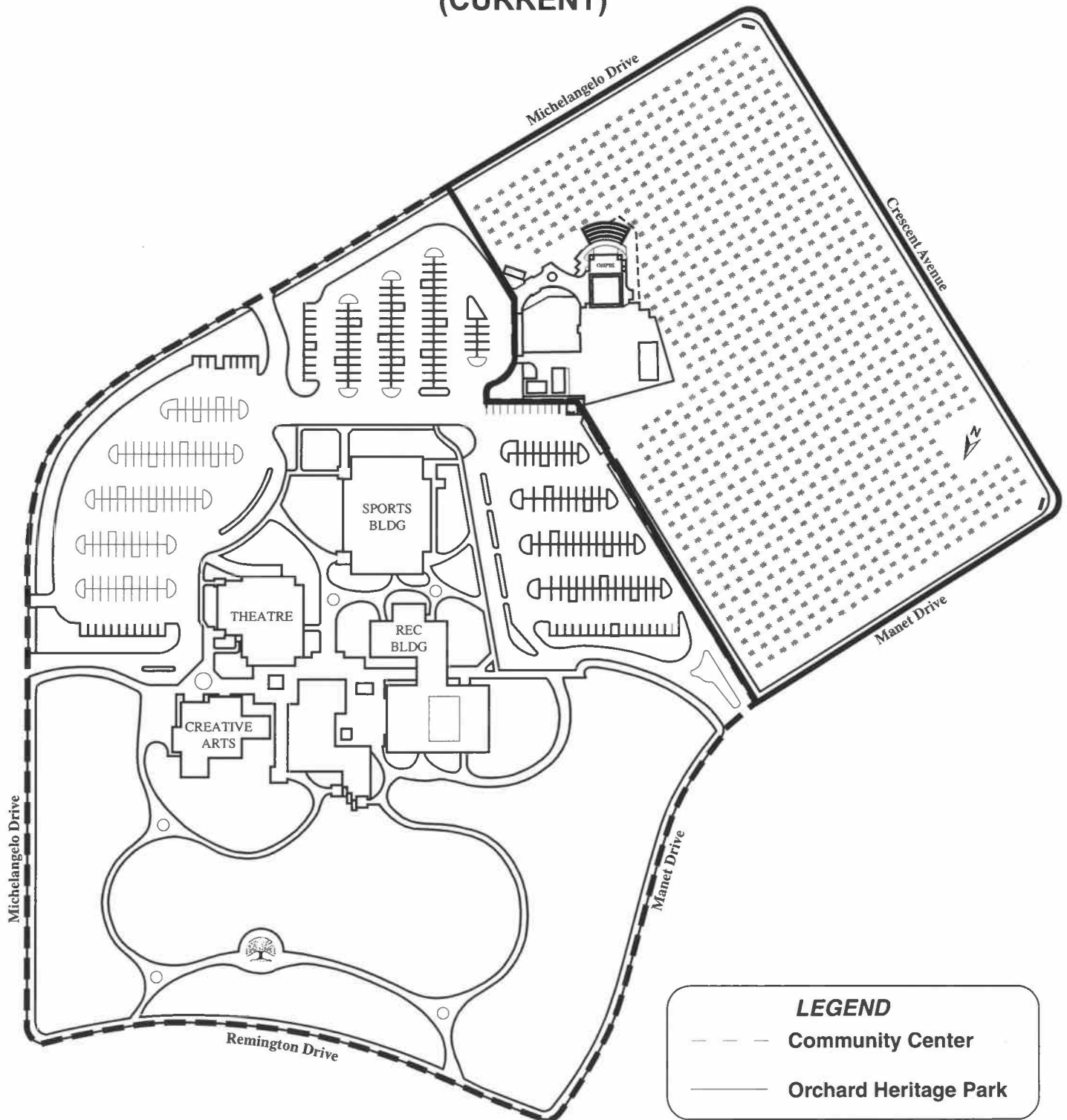
# COMMUNITY CENTER PROPERTIES

(Prior to construction of any buildings, roads, or facilities)

## SEPTEMBER 1965



# COMMUNITY CENTER AND ORCHARD HERITAGE PARK (CURRENT)

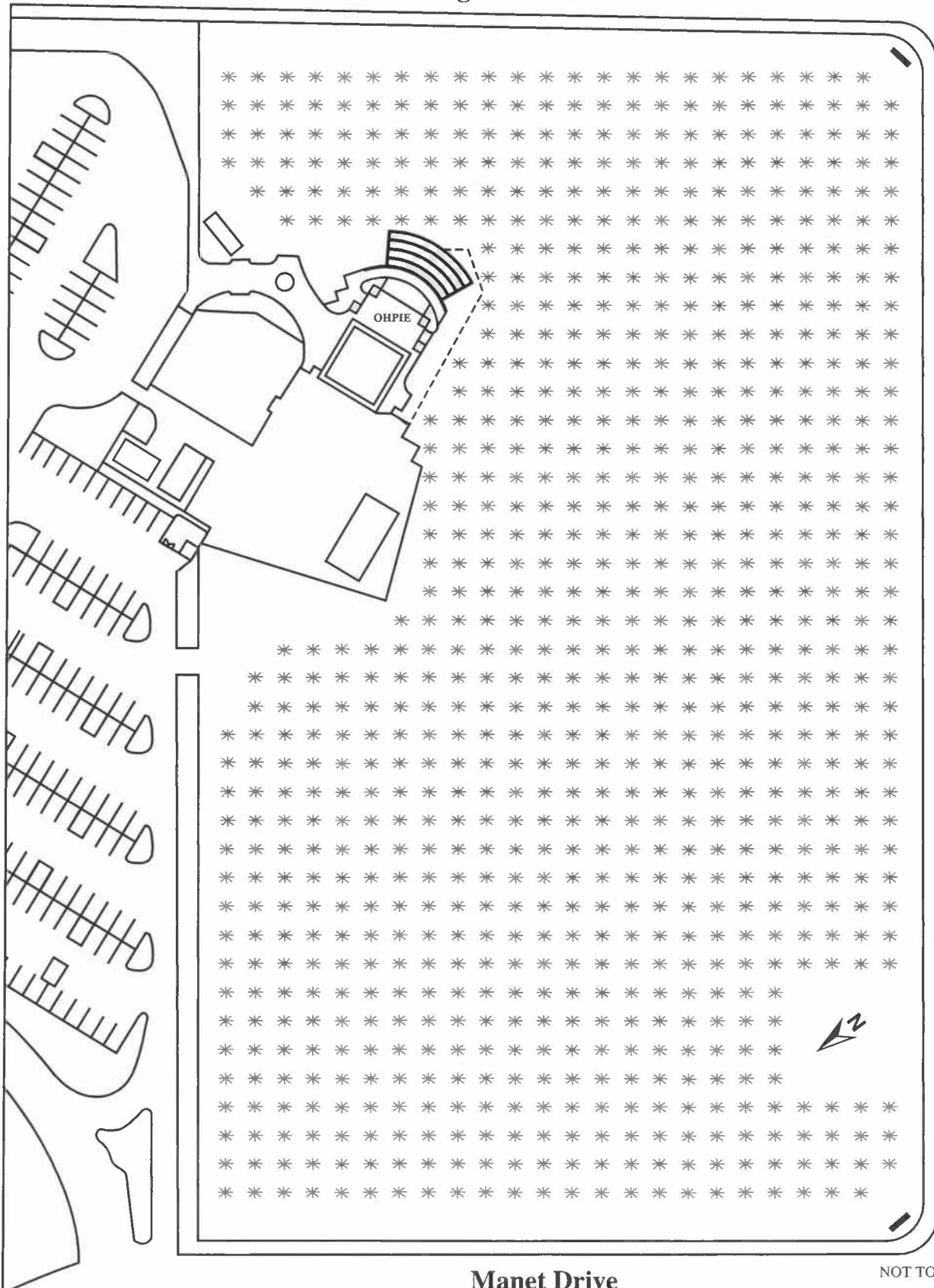


NOT TO SCALE



# ORCHARD HERITAGE PARK (CURRENT)

Michelangelo Drive



Crescent Avenue

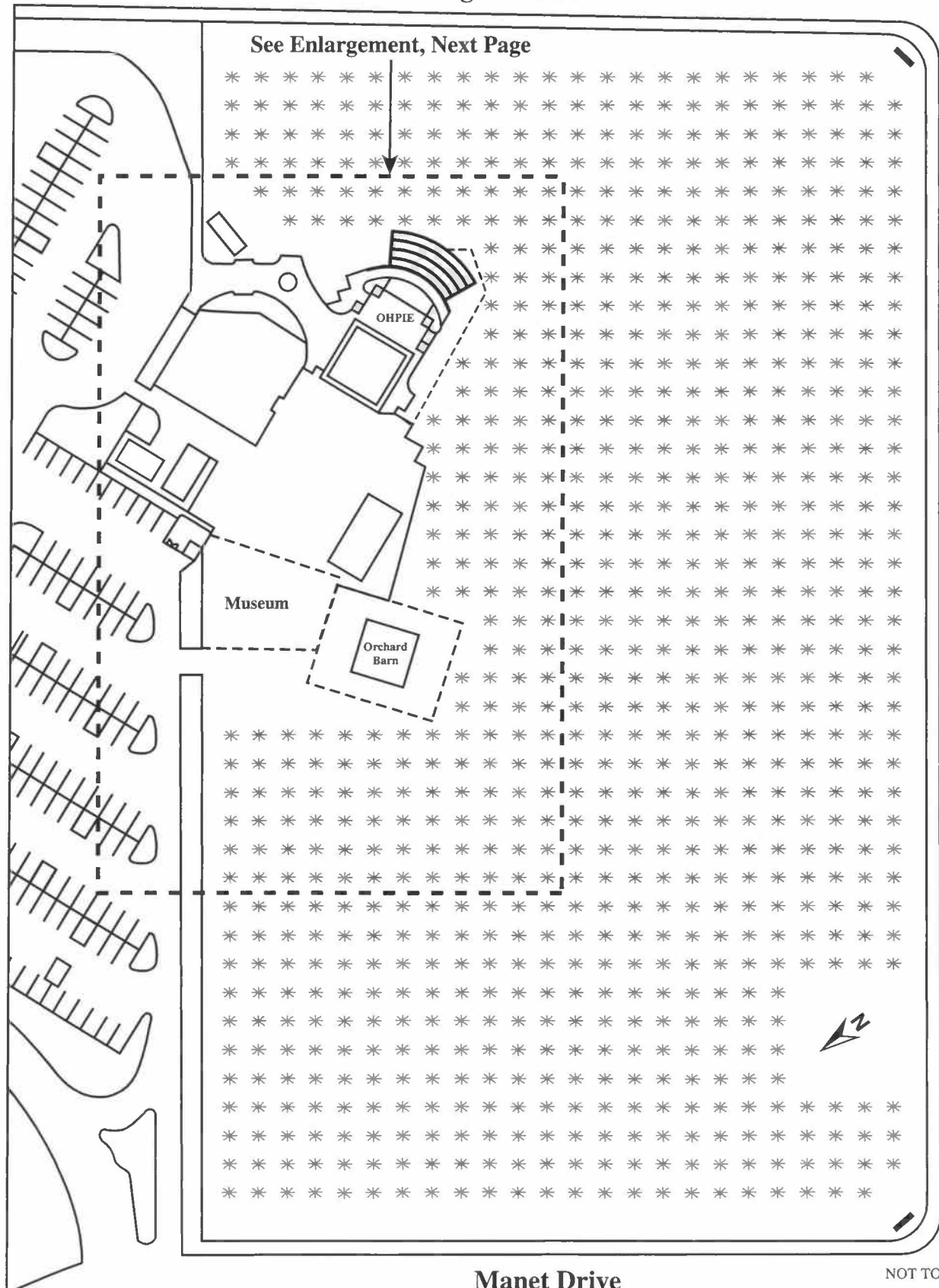
Manet Drive

NOT TO SCALE

# ORCHARD HERITAGE PARK

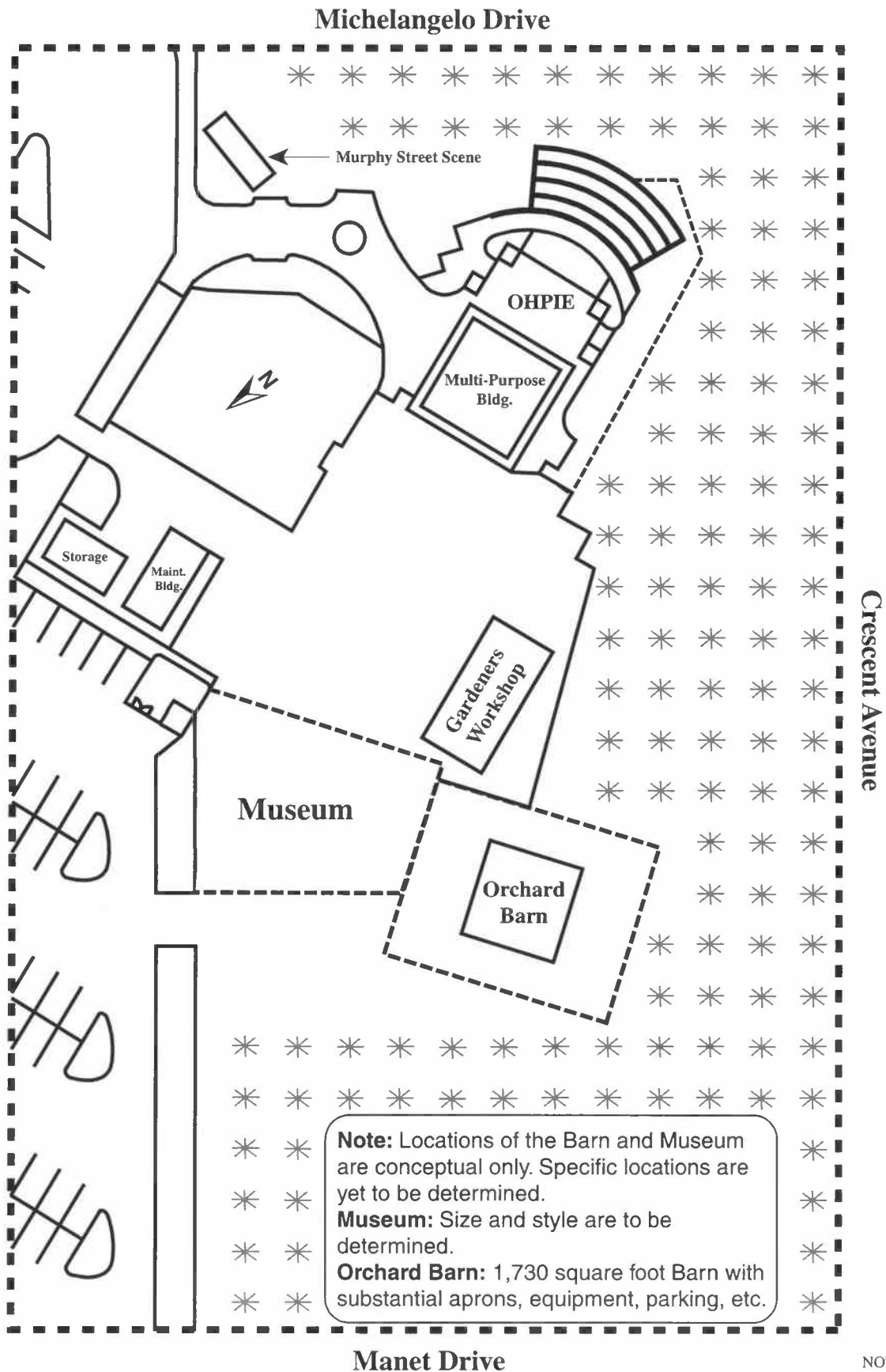
(With Council Approved Barn and Museum)

Michelangelo Drive



# SUNNYVALE HERITAGE CENTER

## (ENLARGEMENT)



NOT TO SCALE



**APPENDIX B**

**ORCHARD MAINTENANCE AGREEMENT**



## APPENDIX B

AMENDMENT TO AGREEMENT BETWEEN CITY OF SUNNYVALE  
AND C.J. OLSON FOR MAINTENANCE OF ORCHARD IN AREA BOUNDED BY  
CRESCENT AVENUE, MICHELANGELO DRIVE, MANET DRIVE AND SUNNYVALE  
COMMUNITY CENTER

THIS AMENDMENT TO AGREEMENT dated January 24, 1996 is  
by and between the CITY OF SUNNYVALE, a municipal corporation  
("CITY"), and C.J. OLSON ("CONTRACTOR").

WHEREAS, on December 15, 1992, CITY and CONTRACTOR entered  
into that certain AGREEMENT BETWEEN CITY OF SUNNYVALE AND C.J.  
OLSON FOR MAINTENANCE OF ORCHARD IN AREA BOUNDED BY CRESCENT  
AVENUE, MICHELANGELO DRIVE, MANET DRIVE AND SUNNYVALE COMMUNITY  
CENTER ("the Agreement"), under which CONTRACTOR agreed to continue  
to maintain a working apricot orchard ("the orchard") on land owned  
by CITY adjacent to its Community Center; and

WHEREAS, CONTRACTOR has periodically removed annual orchard  
prunings from the orchard by burning; and

WHEREAS, a significant number of neighbors residing in the  
immediate vicinity of the orchard are in favor of such continued  
periodic burnings; and

WHEREAS, several such neighbors are opposed to such burnings;  
and

WHEREAS, CITY and CONTRACTOR are desirous of resolving the  
issue of burning of annual orchard prunings in a manner most  
satisfactory to the immediate neighborhood;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AMENDMENT TO  
AGREEMENT.

Paragraph 6 of the Agreement is hereby amended to read as  
follows:

6. Compliance with Laws; Limitations on Burning

- (a) CONTRACTOR shall not discriminate against any employee or  
applicant for employment because of race, religion,  
creed, color, gender, age (persons 40 years of age or  
older), disability, national origin, or any other basis  
to the extent prohibited by federal, state or local law.
- (b) CONTRACTOR shall comply with all federal, state and city  
laws, statutes, ordinances, rules and regulations and the  
orders and decrees of any courts or administrative bodies  
or tribunals in any manner affecting the performance of  
the Agreement.

- (c) Prior to commencement of burning of annual prunings at the orchard, CONTRACTOR shall give advance notice of such burnings to the Director of Parks and Recreation of CITY ("the Director"). In the event the Director, in his or her sole discretion, determines that the conditions at the time of the proposed burning are such that the burning would have an adverse impact on the neighborhood adjacent to the orchard, the Director or his or her designee may direct CONTRACTOR to refrain from, or to cease and desist from such burning. CONTRACTOR shall comply with such direction. In the event that CONTRACTOR is not permitted to complete the burning within two (2) weeks of such direction, CONTRACTOR shall notify CITY of that fact, and CITY shall take such alternative actions as it may deem necessary to remove all orchard prunings at CITY expense within two (2) weeks from notification from CONTRACTOR. Such alternative actions include but are not limited to chipping, flail mowing, and off-hauling.
- (d) In the event that CONTRACTOR is unable to complete the removal of annual orchard prunings by burning in accordance with said Regulation 5, CONTRACTOR shall notify CITY and CITY shall take such alternative actions as it may deem necessary to remove all orchard prunings at CITY expense within two weeks from notification from CONTRACTOR. Such alternative actions include but are not limited to chipping, flail mowing, and off-hauling. Upon rendition of such notice, CONTRACTOR shall cease and desist from burning pending (1) the removal of the prunings, or (2) CONTRACTOR's ability to resume burning in accordance with said Regulation 5, whichever first occurs. In the event that CONTRACTOR is able to resume burning, CITY shall discontinue its removal of the prunings.
- (e) In the event that CITY desires that annual orchard prunings for a particular period be removed from the orchard by methods other than by burning, CITY shall notify CONTRACTOR, and CITY shall take such actions alternative to burning as it may deem necessary to remove all orchard prunings at CITY expense within two weeks of the notification of CONTRACTOR. Such alternative actions include but are not limited to chipping, flail mowing, and off-hauling. Upon receipt of such notice, CONTRACTOR shall cease and desist from burning pending the removal of the prunings.
- (f) In the event that CITY desires that annual orchard prunings for the remaining period of the Agreement be removed from the orchard by methods other than by burning, CITY shall notify CONTRACTOR. CONTRACTOR shall



notify CITY as to when such prunings for a given period need to be removed, and CITY shall take such actions alternative to burning as it may deem necessary to remove all orchard prunings at CITY expense within two weeks of each notification by CONTRACTOR during the remainder of this Agreement. Such alternative actions include but are not limited to chipping, flail mowing, and off-hauling. Upon receipt of such notice, CONTRACTOR shall cease and desist from burning for the remainder of the period of this Agreement.

- (g) CONTRACTOR shall perform all burning of annual orchard prunings in compliance with Regulation 5 of the Bay Area Air Quality Management District. A true and correct copy of Regulation 5 is set forth in Exhibit "C", attached and incorporated by reference.

The Agreement shall remain unmodified in all other respects.

IN WITNESS WHEREOF, the parties have executed this Amendment to Agreement.

ATTEST:  
CITY CLERK

*Catherine A. Butler*  
Deputy City Clerk

CITY OF SUNNYVALE ("CITY")

By *[Signature]*  
City Manager

APPROVED AS TO FORM:

*[Signature]*  
C.J. OLSON ("CONTRACTOR")

*Stephen R. Butler*  
Sr. Asst City Attorney



AGREEMENT BETWEEN CITY OF SUNNYVALE  
AND C.J. OLSON FOR MAINTENANCE OF ORCHARD IN AREA BOUNDED BY  
CRESCENT AVENUE, MICHELANGELO DRIVE, MANET DRIVE AND SUNNYVALE  
COMMUNITY CENTER

THIS AGREEMENT dated December 15, 1992 is by and  
between the CITY OF SUNNYVALE, a municipal corporation ("CITY"),  
and C.J. OLSON ("CONTRACTOR").

WHEREAS, in connection with the arboretum park site currently  
owned and used by CITY, CITY desires to continue to maintain in  
proper fashion a working apricot orchard on land more specifically  
described in Exhibit "A" attached and incorporated by reference;  
and

WHEREAS, CONTRACTOR has satisfactorily provided such  
maintenance of such orchard for the past fifteen (15) years, and  
CITY has determined that by reason of the demonstrated abilities of  
CONTRACTOR in performing such prior maintenance and the past  
experience of CONTRACTOR, CONTRACTOR possesses the skill and  
expertise to provide the required services as an orchardist;

WHEREAS, CONTRACTOR is willing to perform the required  
services upon the terms and conditions set forth in this Agreement;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1. Services by CONTRACTOR

CONTRACTOR shall provide the following renewal, maintenance  
and other services for CITY with respect to its apricot orchard as  
described in Exhibit "A":

- (a) CONTRACTOR shall remove all dead trees and stumps and  
replace them with new Blenheim apricot trees at the  
expense of CONTRACTOR. CONTRACTOR will make its best  
efforts to obtain all necessary replacement trees at the  
earliest opportunity in advance of the appropriate  
planting season for such trees. The parties understand  
and agree that the purpose and intent of this Agreement  
is to continue to provide CITY with a complete working  
orchard at all times.
- (b) CONTRACTOR shall well and sufficiently furnish all labor,  
tools, equipment, apparatus, facilities, transportation  
and all materials necessary to perform and complete in a  
good workerlike manner the above removal and replanting  
along with continuing maintenance of the orchard in a  
proper fashion, including but not limited to pruning,  
spraying, discing, thinning, picking, fertilizing,  
weeding and irrigating as required to maintain said  
orchard in a health and productive state. CONTRACTOR  
shall bear the expense of all of the foregoing services.

CONTRACTOR shall determine the method, details and means of performing the services. CITY shall have no right to, and shall not, control the manner or determine the method of accomplishing CONTRACTOR's services. CONTRACTOR shall perform the services at such times and places as CONTRACTOR shall determine, with the exception of attendance at meetings required in conjunction with the services rendered.

2. Responsibilities of Parties for Maintenance at Boundaries; Signage

- (a) CONTRACTOR shall be responsible for keeping all sidewalks and walkways abutting the orchard free of dirt and debris from the operations of CONTRACTOR, and CITY shall be responsible for keeping all such sidewalks and walkways free of weeds.
- (b) CITY shall be responsible for maintenance of that portion of the orchard adjacent to Crescent Avenue from the curb to the top of the berm.
- (c) CONTRACTOR may erect a temporary wire fence around the orchard for a period of one month during the harvest season.
- (d) CITY shall have the right to install educational/interpretive signage relating to the orchard at either or both of two locations within the orchard as shown on Exhibit "A", and upon such installation CONTRACTOR shall have no further obligations of maintenance or rights of harvest with respect to the area within which any such signage is installed.

2. Time for Performance

The term of this Agreement shall be for ten (10) years from the date of execution, unless otherwise terminated.

3. Duties of CITY

CITY shall supply any documents or information available to CITY required by CONTRACTOR for performance of its duties. Any materials provided shall be returned to CITY upon completion of the work.

4. Compensation

- (a) In return for the above services to be provided by CONTRACTOR and CONTRACTOR's expense, CITY shall allow CONTRACTOR to harvest and retain the entire production from said orchard during the term of this Agreement.
- (b) As further compensation for the services of CONTRACTOR, CITY agrees to provide all necessary water for said apricot orchard to CONTRACTOR. CONTRACTOR understands

that said water shall be used only for said orchard.

5. Conflict of Interests

No officer or employee of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement CONTRACTOR shall not accept employment or an obligation which is inconsistent or incompatible with CONTRACTOR's obligations under this Agreement.

6. Compliance with Laws

- (a) CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, religion, creed, color, gender, age (persons 40 years of age or older), disability, national origin, or any other basis to the extent prohibited by federal, state or local law.
- (b) CONTRACTOR shall comply with all federal, state and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement.

7. Independent Contractor

CONTRACTOR is acting as an independent contractor in furnishing the services or materials and performing the work required by this Agreement and is not an agent, servant or employee of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and CONTRACTOR. CONTRACTOR is responsible for paying all required state and federal taxes.

8. Indemnity

CONTRACTOR agrees to indemnify and hold harmless CITY, its officers and employees from any and all claims, demands, actions, causes of action, losses, damages, liabilities, known or unknown, and all costs and expenses, including reasonable attorneys' fees in connection with any injury or damage to persons or property arising out of or in any way connected with the act, omission or negligence of CONTRACTOR, its officers, employees, agents, contractor, subcontractors or any officer, agent or employee thereof in relation to CONTRACTOR's performance under this Agreement.

9. Insurance

CONTRACTOR shall take out and maintain during the life of this Agreement policies of insurance as specified in Exhibit "B" attached and incorporated by reference, and shall provide all certificates and/or endorsements as specified in Exhibit "B."

10. CITY Representative

ROBERT WALKER, Superintendent of Parks, or such other person

as may be designated by the Director of Parks and Recreation of CITY, shall represent CITY as the City Manager's authorized representative in all matters pertaining to the services to be rendered under this Agreement. All requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

11. CONTRACTOR Representative

C.J. OLSON shall represent CONTRACTOR in all matters pertaining to the services and materials to be rendered under this Agreement; all requirements of CONTRACTOR pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the CONTRACTOR representative.

12. Notices

All notices required by this Agreement shall be in writing, and shall be personally delivered, sent by first class mail with postage prepaid, or by commercial courier, addressed as follows:

To CITY:

City Manager  
CITY OF SUNNYVALE  
P. O. Box 3707  
Sunnyvale, CA 94088-3707

To CONTRACTOR:

C.J. Olson  
Route 1, Box 140  
El Camino Real  
Sunnyvale, CA 94087

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, written confirmation or a telephone conversation or an original of a facsimile transmission must be sent by first class mail, by commercial carrier, or hand-delivered. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three days after mailing, unless such date is a date on which there is no mail service. In that event communication is deemed to occur on the next mail service day.

13. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

14. Termination

- (a) If CONTRACTOR defaults in the performance of this Agreement, or materially breaches any of its provisions,

CITY at its option may terminate this Agreement by giving written notice to CONTRACTOR.

- (b) Without limitation to such rights or remedies as CITY shall otherwise have by law, either party shall have the right to terminate this Agreement for any reason upon ninety (90) days' written notice to the other party. If the Agreement is terminated by CITY, CONTRACTOR shall be reimbursed by CITY for his expenses directly related to tree replacement over the life of the Agreement, together with preharvest expenses for the year of termination where the termination occurs before the commencement of the harvest. As a condition to such reimbursement of expenses, CONTRACTOR shall furnish to CITY annually a financial audit of his operations under this Agreement.

15. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

16. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. This Agreement shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:  
CITY CLERK

CITY OF SUNNYVALE ("CITY")

  
Deputy City Clerk

By   
City Manager

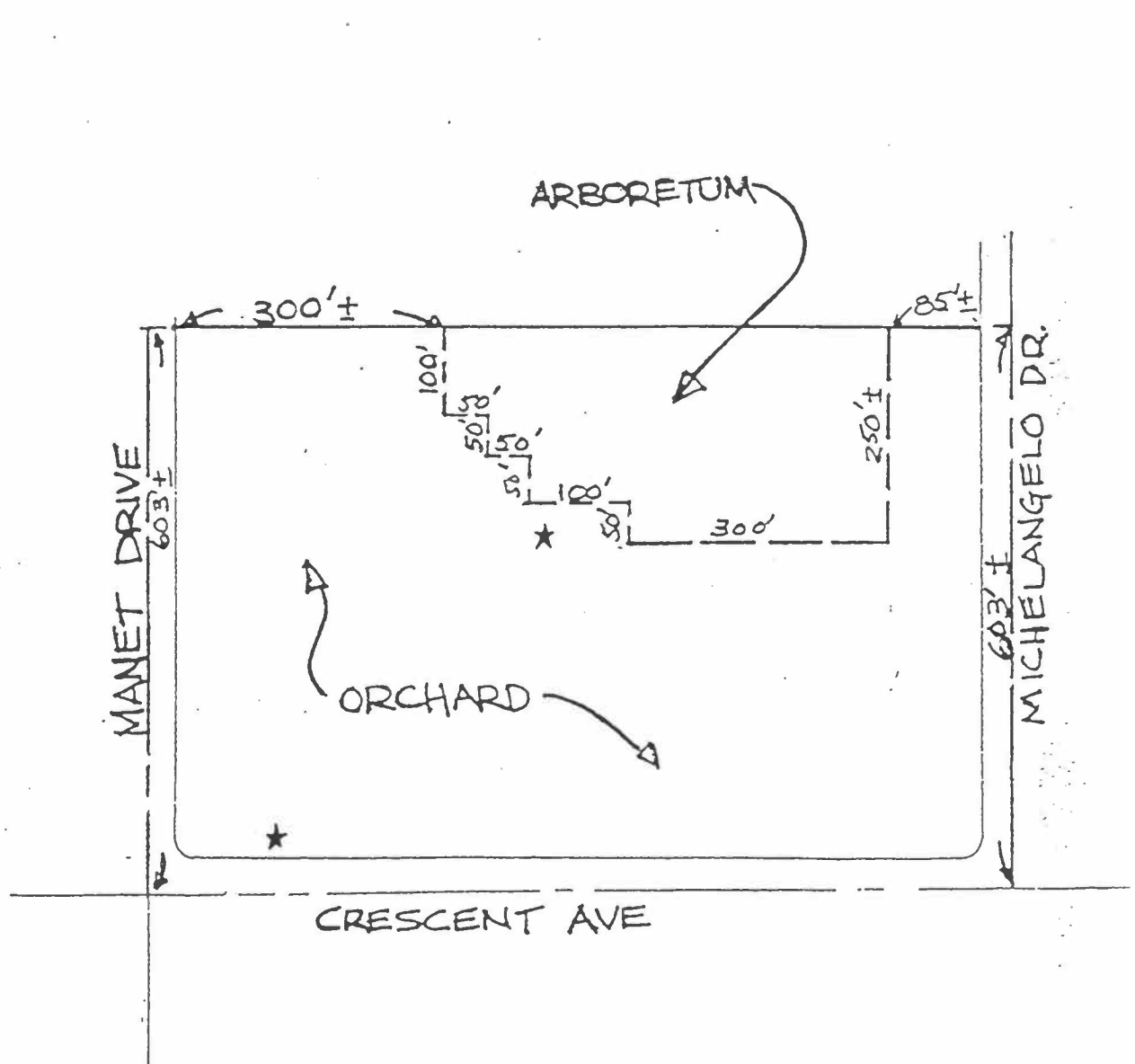
APPROVED AS TO FORM:

  
C.J. OLSON ("CONTRACTOR")

  
Sr. Asst. City Attorney



EXHIBIT "A"



★ POSSIBLE LOCATIONS FOR EDUCATIONAL DISPLAYS/INTERPRETIVE SIGNAGE



**APPENDIX C**

**ORCHARD HERITAGE PARK INTERPRETATIVE EXHIBIT (O.H.P.I.E.)  
MAINTENANCE AGREEMENT**



**AGREEMENT BETWEEN CITY OF SUNNYVALE AND SUNNYVALE  
HISTORICAL SOCIETY AND MUSEUM ASSOCIATION FOR THE  
DEVELOPMENT OF AN INTERPRETIVE EXHIBIT AT ORCHARD  
HERITAGE PARK AT THE SUNNYVALE COMMUNITY CENTER**

THIS AGREEMENT, made and entered into this 19<sup>th</sup> day of September 2000, by and between CITY OF SUNNYVALE, a municipal corporation of the State of California ("CITY"), and SUNNYVALE HISTORICAL SOCIETY, a California not for profit corporation ("SOCIETY");

WHEREAS, on December 15, 1992, pursuant to the Open Space Sub-Element of the General Plan of CITY, the City Council of CITY designated a ten (10) acre orchard at CITY's Community Center as a special use site to be known as Orchard Heritage Park; and

WHEREAS, on September 27, 1994, the City Council of CITY approved a design concept for the Orchard Heritage Park Interpretive Exhibit as outlined in Report to Mayor and Council No. 94-496. The City Council also directed CITY staff to continue coordination with SOCIETY for development and funding of said design concept, with engineering and exhibit design documents to be submitted to the City Council in the future; and

WHEREAS, SOCIETY has represented to CITY that SOCIETY currently has sufficient funding to proceed with the development of the Interpretive Exhibit; and

WHEREAS, the parties desire to proceed with the development of the Exhibit through a formal agreement between them.

NOW, THEREFORE, the parties agree as follows:

SECTION 1. SOCIETY HAS PREPARED CONSTRUCTION PLANS AND SPECIFICATIONS  
AND WILL CONSTRUCT AND FINANCE PROJECT.

(a) The parties acknowledge that SOCIETY has caused to be prepared at its expense and has submitted to CITY construction plans and specifications for a project (the "Project") consisting of an interpretive exhibit depicting and commemorating the history of orchards within the City of Sunnyvale and the surrounding community. SOCIETY has prepared such plans and specifications in consultation with CITY. The Project site consists of an area in the southeasterly portion of the Sunnyvale Community Center, east of the Arboretum building and the existing orchard fence. The area encompasses approximately 7,200 square feet. The Project site is more precisely depicted in Exhibit "A", attached hereto and incorporated herein by this reference. The Conceptual Plan for the Project set forth in Exhibit "B", attached hereto and incorporated herein by this reference.

(b) Upon filing of the final plans and specifications CITY shall review the Project through its staff under the miscellaneous plan permit process. It is acknowledged that the Planning Commission and City Council of CITY have reviewed the plans and specifications as an informational item and have approved them. If CITY fails to approve the plans and specifications within a reasonable time this Agreement shall terminate, and the parties shall have no further obligations thereunder. If CITY, through its staff, approves the plans and specifications within a reasonable time), SOCIETY shall have the following responsibilities regarding the Project:

- (1) Obtaining all necessary permits authorizing construction of the Project

from CITY and other public agencies having jurisdiction over the Project, in compliance with all applicable laws, regulations, Codes, and the permitting process. All fees that CITY would otherwise charge SOCIETY in connection with CITY's review and processing of the Project are hereby waived.

(2) Prior to commencement of construction of the Project, provide CITY with access to the financial records of SOCIETY, with sufficient proof that the SOCIETY has sufficient funds to undertake and complete such construction.

(3) Commence construction of the Project not later than November 30, 2000, and complete construction not later than March 30, 2001.

(4) Provide all labor, materials and funding necessary for construction of the Project. The parties understand that CITY's role in providing the means for construction of the Project is limited to furnishing the land upon which the Project is to be constructed. In the event that CITY makes any monetary contribution to SOCIETY in connection with the Project, SOCIETY shall use all moneys so received toward implementation of the exhibit and not for payments toward the cost of construction. Exhibit implementation costs include the professional design and services of an exhibit designer, research and documentation of a professional historian, and the fabrication of the exhibit panels presenting the history story.

(c) CITY shall use reasonable efforts to expedite planning, permits and approval for construction of the Project.

SECTION 2. OBLIGATIONS OF CITY UPON COMPLETION AND ACCEPTANCE OF PROJECT

(a) Upon completion of the Project and acceptance of it by CITY, ownership in the Project shall vest in CITY.

(b) Upon completion of the Project and acceptance of it by CITY, CITY shall become responsible for maintenance of the Project, and the furnishing of all utilities related thereto, including water, gas, electricity, sewer, garbage, and such telephone service as CITY may deem appropriate, at the cost and expense of CITY.

(c) CITY shall determine the hours of the day the Project shall be open to the public.

(d) CITY shall have the right to determine whether fees should be charged to the public for admittance to the Project, and the amounts of such fees as may be charged in accordance with the policies of CITY's Recreation Sub-Element of its General Plan. CITY shall not charge SOCIETY any fees for its use of Project, provided that such use is first scheduled and approved by the Director of Parks and Recreation of CITY or his or her designee.

SECTION 3. INDEMNIFICATION AND INSURANCE.

(a) SOCIETY shall defend, indemnify and hold harmless CITY, its officer, agents and employees from any claims, demands, actions, causes of action, losses, damages, liabilities, known or unknown, and all costs and expenses, including reasonable attorneys' fees, in connection with any death of or bodily injury to persons or loss of or damage to property arising out of or in any way connected with the act, omission, or negligence of SOCIETY, its officers, employees, agents, contractor,



subcontractor or any officer, agent or employee thereof in relation to the performance by SOCIETY of its obligations under this Agreement. This paragraph shall not apply to any death, bodily injury, loss or damage occurring more than five (5) years after completion of construction of the Project and its acceptance by CITY.

(b) SOCIETY shall obtain and keep in force a liability insurance policy in the amount of not less than \$1,000,000.00 insuring against the risks of personal and bodily injury and loss of or damage to property arising out of the performance by SOCIETY of its obligations under this Agreement. Such insurance policy shall designate CITY, its officials, employees, agents and volunteers as additional insureds with respect to liability arising out of activities performed on behalf of SOCIETY under this Agreement. For any claims related to such activities, SOCIETY's insurance shall be primary.

(c) SOCIETY shall obtain from any contractors performing activities designated in this Agreement with regard to the Project, whether such persons are performing such activities for compensation or in kind, certificates of such liability insurance protecting against the risks described in Section 3(b) as such contractors may have in effect. Such certificates shall designate CITY, SOCIETY, and their officials, employees, agents and volunteers as additional insureds with respect to liability arising out of activities performed by the contractor on behalf of SOCIETY under this Agreement.

#### SECTION 4. REPRESENTATIVES OF THE PARTIES

(a) The Director of Parks and Recreation or designee shall represent CITY in all matters pertaining to the administration of this Agreement. All requirements of CITY pertaining to the Project shall be coordinated through the CITY representative.

(b) The President of SOCIETY or designee shall represent SOCIETY in all matters pertaining to the administration of this Agreement. All requirements of SOCIETY pertaining to the Project shall be coordinated through the SOCIETY representative.

SECTION 5. TIME OF THE ESSENCE. Time is of the essence of this Agreement. If SOCIETY fails to perform its obligations set forth in Section 1 in a timely manner, CITY may terminate this Agreement, except to the extent that such obligations may be suspended pursuant to Section 6.

SECTION 6. FORCE MAJEURE. If, due to act of God; fire; flood; storm; inclement weather; earthquake; drought; acute restrictions or riot; war or insurrection; plant or animal infestation or disease; sudden or severe energy shortage; strike; work stoppage; work slowdown or other concerted job action; or other condition of emergency or disaster beyond the control of either party which makes performance of any of its obligations under this Agreement impossible or extremely impracticable, such obligations shall be suspended during such time any such condition or conditions exist.

SECTION 7. DISCRIMINATION PROHIBITED. Neither CITY nor SOCIETY shall discriminate in the employment of persons engaged in the performance of this Agreement on account of race, color, national origin, ancestry, sex, disability, sexual orientation, or medical condition, in violation of state or federal laws, or any other basis otherwise prohibited by state or federal law.

SECTION 8. NOTICES. All notices shall be given in writing and mailed, postage prepaid, by certified mail, addressed as follows:

To CITY                      Director of Parks and Recreation  
City of Sunnyvale  
P.O. Box 3707  
Sunnyvale, CA 94088-3707

To SOCIETY                President  
Sunnyvale Historical Society and Museum Association  
P.O. Box 61301  
Sunnyvale, CA 94088

SECTION 9. EFFECT OF WAIVER OF BREACH OR VIOLATION. The waiver by either party of any breach or violation of any term, covenant, or condition of this Agreement or of any provision of law shall not be deemed to be a waiver of any other term, covenant, or condition or law. The subsequent acceptance by either party of any money that may become due hereunder shall not be deemed a waiver of any preceding breach or violation by the other party of any term or condition of this Agreement, or of any applicable law.

SECTION 10. LEGAL ACTIONS; ATTORNEY FEES.

(a) Any disputes regarding this Agreement shall be resolved according to the laws of the State of California. Any legal proceedings shall be instituted in the courts of the State of California and County of Santa Clara, irrespective of any claim of diversity of citizenship or other possible jurisdictional conditions.

(b) The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorney's fees expended in connection with such an action from the other party, not to exceed \$ 5,000.00.

SECTION 11. INTEGRATED AGREEMENT. This document represents the entire and integrated Agreement between CITY and SOCIETY and supersedes all prior

negotiations, representations or agreements, either written or oral. This Agreement shall not be construed as nor deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action herein for any cause whatever.

SECTION 12. AMENDMENT OF AGREEMENT. This Agreement may be amended only by written instrument, signed by both CITY and SOCIETY.

SECTION 13. ALL PROVISIONS OF AGREEMENT ARE CONDITIONS. All provisions of this Agreement are expressly made conditions.

SECTION 14. TERMINATION OF AGREEMENT; SURVIVAL OF OBLIGATIONS.

(a) SOCIETY may terminate this Agreement upon written notice to CITY for any of the following reasons:

(1) The failure of CITY to approve the plans and specifications within a reasonable time.

(2) The failure of CITY to issue all permits necessary for construction of the Project within a reasonable time.

(b) CITY may terminate this Agreement upon written notice to SOCIETY for any of the following reasons:

(1) The failure of SOCIETY to timely prepare and submit the final version of its plans and specifications for the Project.

(2) The failure of SOCIETY to commence construction of the Project by November 30, 2000.

(3) The failure of SOCIETY to complete construction of the Project by March 30, 2001.

(c) This Agreement may be terminated at any time upon the mutual assent of the City Council of CITY and the Board of Directors of SOCIETY.

(d) Upon termination of this Agreement the parties shall have no further responsibilities thereunder, except that the obligation of SOCIETY pursuant to Section 3(a) shall survive the termination of this Agreement.

IN WITNESS WHEREOF, CITY and SOCIETY have executed this Agreement on the day and year first above written.

ATTEST:  
City Clerk

By

Deputy City Clerk

CITY OF SUNNYVALE ("CITY")

Mayor

APPROVED AS TO FORM:

SUNNYVALE HISTORICAL  
SOCIETY AND MUSEUM  
ASSOCIATION ("SOCIETY")

President

Acting City Attorney



**APPENDIX D**

**SUNNYVALE HISTORICAL SOCIETY (S.H.S.) AGREEMENT**

**(intentionally omitted)**

**(The maintenance/use agreement is in the process of being developed.)**





# DUPLICATE ORIGINAL

## FIRST AMENDMENT TO AGREEMENT BETWEEN CITY OF SUNNYVALE AND SUNNYVALE HISTORICAL SOCIETY AND MUSEUM ASSOCIATION PERTAINING TO THE DESIGN, DEVELOPMENT, CONSTRUCTION AND LEASE OF A HERITAGE MUSEUM AT THE SUNNYVALE HERITAGE CENTER

THIS FIRST AMENDMENT is entered into on October 22, 2007, by the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and the SUNNYVALE HISTORICAL SOCIETY AND MUSEUM ASSOCIATION ("SOCIETY").

### RECITALS

On September 12, 2006, CITY and SOCIETY entered a fifty (50) year agreement pertaining to the design, development, construction and lease of a Heritage Museum at Sunnyvale Heritage Center at the Sunnyvale Community Center ("the Agreement"). By this Agreement, the Society has exclusive control of the premises to construct a museum on said premises.

NOW THEREFORE, the parties agree that the Agreement dated September 12, 2006, will be amended by the addition of the following addendum:

#### Paragraph 7(d) is replaced with the following amendment:

##### (d) Obligations of CITY

CITY shall contribute \$140,000 funding for this project.

##### Obligations of SOCIETY

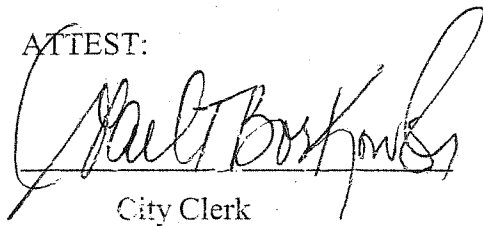
1. SOCIETY shall use the entire \$140,000 CITY contribution to fund the detailed landscape design, purchase landscaping materials and cover construction and installation costs for the landscaping. CITY shall have no further obligation to contribute funding if the cost of completion of the work exceeds the City's contribution of \$140,000.
2. Society has exclusive control of said premises to oversee the installation of the Landscaping Plan and shall cause to be prepared, at its expense, and shall submit to CITY

construction plans and specifications for the Landscaping Plan to include the area designated on Exhibit A and incorporated as part of this amendment.

3. SOCIETY shall prepare such plans and specifications in consultation with CITY.
4. SOCIETY shall receive approval of all plans and specifications by the Director of Parks and Recreation and/or his designee(s) prior to filing of final plans and specifications under section 6 below.
5. Prior to construction, SOCIETY shall provide CITY with access to the financial records of SOCIETY, with proof that SOCIETY has sufficient funds to undertake and complete the installation of the Landscaping Plan should costs exceed \$140,000.
6. Prior to construction, SOCIETY shall have obtained all necessary permits authorizing construction of the Project from CITY and other public agencies having jurisdiction over the Project, in compliance with all applicable laws, regulations, codes, and the permitting process.
7. Following completion of construction and installation of landscaping, SOCIETY shall provide notice to CITY and CITY shall provide maintenance of the installed landscape improvements.

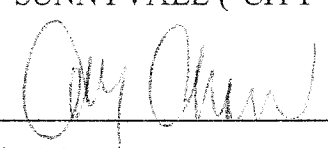
IN WITNESS WHEREOF, the parties have executed this First Amendment.

ATTEST:


  
City Clerk

CITY OF SUNNYVALE ("CITY")

By


  
City Manager

APPROVED AS TO FORM:

  
City Attorney

"SOCIETY"

By

  
Rosa Romano  
SHSMA President

**SECOND AMENDMENT TO AGREEMENT BETWEEN CITY OF SUNNYVALE AND  
SUNNYVALE HISTORICAL SOCIETY AND MUSEUM ASSOCIATION PERTAINING  
TO DESIGN, DEVELOPMENT, CONSTRUCTION AND LEASE OF A HERITAGE  
MUSEUM AT THE SUNNYVALE HERITAGE CENTER**

THIS SECOND AMENDMENT is entered into on February 15, 2012, by the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and the SUNNYVALE HISTORICAL SOCIETY AND MUSEUM ASSOCIATION ["SOCIETY"].

**RECITALS**

On September 12, 2006, CITY and SOCIETY entered an agreement pertaining to the design, development, operation, and maintenance of a Heritage Museum at Sunnyvale Heritage Center at the Sunnyvale Community Center ("the Agreement"). A First Amendment was entered into October 2007. By this Second Amendment, the Society will assume exclusive control of the Multi-Purpose Building located near the premises.

NOW THEREFORE, the parties agree that the Agreement dated September 12, 2006, will be amended by the addition of the following amendment.

**Section 2. Use of City Park Facilities is replaced with the following amendment:**

Section 2. Exclusive use of Multi-Purpose Building at Sunnyvale Heritage Center

**Obligations of CITY**

(a) CITY shall provide SOCIETY, exclusive use of the Multi-Purpose Building ("building") at Sunnyvale Heritage Center (minus public bathrooms) for storage and other purposes by Society in support of the Sunnyvale Historical Museum project. The location of the Multi Purpose Building is shown on Attachment 1.

(b) CITY shall provide exclusive use rent-free for a period to coincide with the termination of the master agreement on June 20, 2054.

(c) CITY shall provide the building to the SOCIETY in an as-is condition on the day of signing of this amendment except for the removal of all portable furniture including tables and chairs.

(d) CITY shall maintain the building except for those improvements made by the SOCIETY.

- (e) CITY shall pay for water and sewer utility costs for the building and electrical costs for the bathrooms.
- (f) CITY shall waive all permit fees for improvements to the building for Society uses.
- (g) CITY shall allow the SOCIETY to utilize the current storage space they occupy at the Murphy Park Recreation building for a period of ten (10) months from the date of the signing of this Second Amendment.
- (h) CITY shall continue to maintain and operate the public bathrooms located on south side of building, providing water, sewer, and power at the City's expense.
- (i) CITY shall maintain all locks on exterior building doors and provide SOCIETY with three (3) sets of keys.
- (j) CITY shall provide reasonable notification to SOCIETY when accessing the building.
- (k) CITY shall, at the expense of the City, continue to provide the City's Property Coverage insurance policy. SOCIETY shall provide insurance coverage, at Society's expense, for contents or any valuable artifacts. CITY shall not be responsible for the replacement of contents or any valuable artifacts that are damaged or stolen from the building.

### **Obligations of SOCIETY**

- (a) SOCIETY shall make improvements to the building at no cost to the City.
- (b) SOCIETY shall prepare plans and specifications in consultation with CITY.
- (c) SOCIETY shall receive approval of all plans and specifications by the Director of Public Works and/or his designee(s) prior to filing of final plans and specifications. City shall be provided with two complete sets of final plans and specifications before construction begins and two complete sets of "as-built" plans and specifications at the completion of construction.
- (d) Prior to construction, SOCIETY shall have obtained all necessary permits authorizing construction of the Project from CITY and other public agencies having jurisdiction over the Project, in compliance with all applicable laws, regulations, codes and the permitting process.
- (e) Scope of work of Project to include but not be limited to the following:
  - 1. Clad the masonry exterior with painted horizontal siding to match the museum.

2. Remove aluminum/steel windows and replace with energy efficient windows (two in each of the existing masonry window opening) with exterior shutters for each new window to match the museum shutters.
3. Remove the aluminum/glass doors and frames and replace with frames and doors to closely match those on the museum.
4. Remove the baseboard heaters at the base of the windows and install a new heating system.
5. Remove plywood soffit under the exterior eaves and the square surface light fixtures. Replace the soffit and light fixtures to closely match those of the museum.
6. Install appropriate directional and informational signage on exterior walls.
7. Install interior shelving and other improvements to facilitate storage and other use needs.
8. Install security system/improvements to maintain safety of archives and artifacts.
9. Removal of all cooking appliances in the kitchenette.
10. Install a breakout meter for Society electrical usage.
11. Relocate the electrical panel to the west wall of the storage room located in the southeast corner of the building. Remove the window in the south wall of the same room and install a double-door.
12. Remove wood roof shakes and replace with composition shingles to match the museum shingles. Add insulation over the existing sheathing.

(f) Improvements #1-11 shall be completed by SOCIETY within 10 months of the signing of this addendum. Improvement #12 shall be completed within 3 years of the signing of this addendum.

(g) All improvements to the building shall become the property of the CITY except for interior improvements, including but not limited to shelving and other structures, made to facilitate the storage of SOCIETY archives and artifacts. These interior improvements shall be removed by SOCIETY and at their cost at the termination of this agreement.

(h) SOCIETY shall maintain all improvements made by SOCIETY over the duration of this Second Amendment.

- (i) SOCIETY shall pay for all electrical costs (minus the bathrooms).
- (j) SOCIETY shall maintain building (minus the bathrooms) in good condition by providing custodial care and light maintenance of building interior and exterior. This includes cleaning, washing, painting and the repair and/or replacement of miscellaneous fixtures including but not limited to door stops and electrical outlet and switch covers.
- (k) SOCIETY shall allow access by City Staff at all times with reasonable notification.
- (l) SOCIETY shall repair/replace or pay for damage to City facilities or equipment furnished by CITY, at the discretion of the CITY, if damage occurred during use by SOCIETY.
- (m) SOCIETY is specifically prohibited from re-permitting any City facility provided within this agreement to any other organization without first obtaining written approval from the CITY.

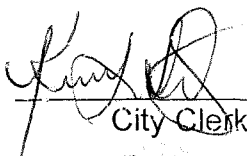
**Termination and review of amendment**

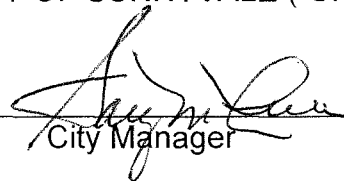
This amendment shall become operative upon its execution by the parties and provided the conditions as noted in the master agreement are fulfilled by SOCIETY, which shall remain operative and continue in full force and effect until June 20, 2054. Within six (6) months following the five (5) year anniversary of the execution of this amendment, both parties shall meet to thoroughly review its terms and the condition of the multi-purpose building and shall consider mutually agreeable revisions to this amendment. Similar actions shall be taken by both parties within six (6) months every five (5) years after the initial and each subsequent review until the termination of the amendment.

IN WITNESS WHEREOF, the parties have executed this Second Amendment.

ATTEST:


CITY OF SUNNYVALE ("CITY")

  
\_\_\_\_\_  
City Clerk

By   
\_\_\_\_\_  
City Manager

APPROVED AS TO FORM:

"SOCIETY"

  
\_\_\_\_\_  
City Attorney for  
SR. ASSISTANT CITY ATTORNEY

By   
\_\_\_\_\_  
Larry Klein  
SHSMA President

**THIRD AMENDMENT TO AGREEMENT BETWEEN CITY OF SUNNYVALE AND  
SUNNYVALE HISTORICAL SOCIETY AND MUSEUM ASSOCIATION PERTAINING  
TO DESIGN, DEVELOPMENT, CONSTRUCTION AND LEASE OF A HERITAGE  
MUSEUM AT THE SUNNYVALE HERITAGE CENTER**

THIS THIRD AMENDMENT is entered into on January 19<sup>th</sup> 2016, by the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and the SUNNYVALE HISTORICAL SOCIETY AND MUSEUM ASSOCIATION ("SOCIETY") collectively referred to as "the Parties".

**RECITALS**

On September 12, 2006, CITY and SOCIETY entered an agreement pertaining to the design, development, operation, and maintenance of a Heritage Museum at Sunnyvale Heritage Center at the Sunnyvale Community Center ("the Agreement").

A First Amendment to the Agreement was entered into on October 22, 2007, which modified section 7 of the Agreement regarding landscaping obligations.

A Second Amendment was entered into on February 15, 2012, which modified section 2 of the Agreement regarding the use of the City's multi-purpose building at the Sunnyvale Heritage Center.

The Parties now wish to enter into a Third Amendment regarding the installation of solar panels.

NOW THEREFORE, the Parties agree that the Agreement dated September 12, 2006, will be amended by adding the following section:

**Section 7.5. Society may make improvements, modifications, and additions to the museum and multipurpose building by installing solar panels.** City Staff shall be consulted on all improvements before construction or installation. Permits will be obtained for each and every improvement.

**Obligations of CITY**

(a) CITY shall provide reasonable notification to SOCIETY when accessing the building.

(b) CITY shall, at the expense of the City, continue to provide the City's Property Coverage insurance policy. SOCIETY shall provide insurance coverage, at Society's expense, for contents or any valuable artifacts. CITY shall not be responsible for the replacement of contents or any valuable artifacts that are damaged or stolen from the building.

### **Obligations of SOCIETY**

(a) SOCIETY shall make improvements to the building at no cost to the City.

(b) SOCIETY shall prepare plans and specifications in consultation with CITY.

(c) **SOCIETY shall receive approval of all plans and specifications by the Director of Public Works and/or his designee(s) prior to filing of final plans and specifications.** City shall be provided with two complete sets of final plans and specifications before construction begins and two complete sets of "as-built" plans and specifications at the completion of construction.

(d) Prior to construction, SOCIETY shall have obtained all necessary permits authorizing construction of the Project from CITY and other public agencies having jurisdiction over the Project, in compliance with all applicable laws, regulations, codes and the permitting process.

(e) Each improvement shall be completed by SOCIETY within 12 months of obtaining a City permit.

(f) All improvements to the building shall become the property of the City.

(g) SOCIETY shall maintain all improvements made by SOCIETY over the duration of this Third Amendment.

(h) SOCIETY shall pay for all costs of all improvements.

(i) SOCIETY shall maintain improvements in good condition by providing custodial care and light maintenance of building interior and exterior. This includes cleaning, washing, painting and the repair and/or replacement of miscellaneous fixtures including but not limited to door stops and electrical outlet and switch covers.

(j) SOCIETY shall allow access by City Staff at all times with reasonable notification.

(k) SOCIETY shall repair/replace or pay for damage to City facilities or equipment furnished by CITY, at the discretion of the CITY, if damage occurred during use by SOCIETY.

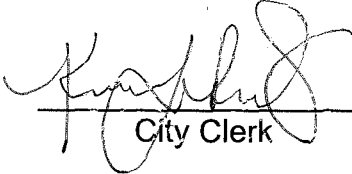


**Termination and review of amendment**

This amendment shall become operative upon its execution by the parties and provided the conditions as noted in the master agreement are fulfilled by SOCIETY, which shall remain operative and continue in full force and effect until June 20, 2054.

IN WITNESS WHEREOF, the parties have executed this Second Amendment.

ATTEST:

  
\_\_\_\_\_  
City Clerk

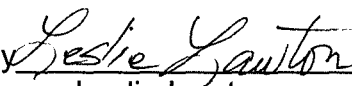
CITY OF SUNNYVALE ("CITY")

By   
\_\_\_\_\_  
City Manager

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

"SOCIETY"

By   
\_\_\_\_\_  
Leslie Lawton  
SHSMA President

**FOURTH AMENDMENT TO AGREEMENT BETWEEN CITY OF SUNNYVALE AND  
SUNNYVALE HISTORICAL SOCIETY AND MUSEUM ASSOCIATION PERTAINING  
TO THE DESIGN, DEVELOPMENT, CONSTRUCTION AND LEASE OF A HERITAGE  
MUSEUM AT THE SUNNYVALE HERITAGE CENTER**

THIS FOURTH AMENDMENT is entered into on June 19, 2018, by the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and the SUNNYVALE HISTORICAL SOCIETY AND MUSEUM ASSOCIATION ("SOCIETY").

**RECITALS**

On September 12, 2006, CITY and SOCIETY entered a fifty (50) year agreement pertaining to the design, development, construction and lease of a Heritage Museum at Sunnyvale Heritage Center at the Sunnyvale Community Center (the "Agreement"). Pursuant to the terms of the Agreement, the SOCIETY has exclusive control of the premises to construct a museum on said premises.

NOW, THEREFORE, the parties agree as follows:

**1. Amendment to Section 8(b).** Section 8 (b) of the Agreement shall be modified in its entirety to read:

- (b) SOCIETY is responsible for furnishing gas and electricity utilities at no cost or expense to CITY. SOCIETY shall pay CITY for water and sewer usage based on a 1" meter size and an average water use of seven hundred cubic feet per month (the "Water and Sewer Usage Payment"). The effective date of the Water and Sewer Usage Payment shall be retroactive to July 1, 2015. SOCIETY shall be billed for garbage based on the cart or bin size subscribed to by SOCIETY. The bill shall be recalculated annually to reflect current utility rates.

**2. Integration.** This Fourth Amendment contains the entire agreement between the parties with respect to its subject matter and supersedes whatever oral or written understanding they may have had prior to the execution of this Fourth Amendment. This Fourth Amendment shall not be amended or modified except by a written agreement executed by each of the parties. Except as specifically revised herein, all terms and conditions of the Agreement, and all prior amendments, if any, shall remain in full force and effect, and SOCIETY shall perform all duties, obligations and conditions required under the Agreement.

**3. Inconsistencies.** In the event of any conflict or inconsistency between the provisions of this Fourth Amendment and the Agreement, and any prior amendment, if any, the provisions of this Fourth Amendment shall control in all respects.


**4. Ambiguities.** The parties have each carefully reviewed this Fourth Amendment and have agreed to each term of this Fourth Amendment. No ambiguity shall be presumed to be construed against either party.

**5. Counterparts.** This Fourth Amendment may be executed by the parties in one or more counterparts all of which collectively shall constitute one document and agreement.

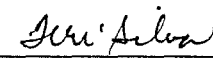
**6. Authority.** The person signing this Fourth Amendment for SOCIETY hereby represents and warrants that he or she is fully authorized to sign this Fourth Amendment on behalf of SOCIETY.

IN WITNESS WHEREOF, the parties have executed this Fourth Amendment.


ATTEST:

  
\_\_\_\_\_  
City Clerk

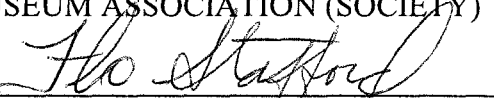
CITY OF SUNNYVALE ("CITY")

By   
\_\_\_\_\_  
f Kent Steffens, City Manager

APPROVED AS TO FORM:

  
\_\_\_\_\_  
John A. Nagel, City Attorney

SUNNYVALE HISTORICAL SOCIETY AND  
MUSEUM ASSOCIATION (SOCIETY)

By   
\_\_\_\_\_  
Flo Stafford  
SHSMA President