City Council

Monday, April 20, 2020
Regular Meeting
6:00 PM

Agenda posted according to PAMC Section 2.04.070. Supporting materials are available in the Council Chambers on the Thursday 11 days preceding the meeting.

****BY VIRTUAL TELECONFERENCE ONLY***

https://zoom.us/join  Meeting ID: 362-027-238  Phone: 1(669)900-6833

Pursuant to the provisions of California Governor’s Executive Order N-29-20, issued on March 17, 2020, to prevent the spread of Covid-19, this meeting will be held by virtual teleconference only, with no physical location. The meeting will be broadcast on Cable TV Channel 26, live on YouTube at https://www.youtube.com/c/cityofpaloalto, and Midpen Media Center at https://midpenmedia.org. Members of the public who wish to participate by computer or phone can find the instructions at the end of this agenda. To ensure participation in a particular item, we suggest calling in or connecting online 15 minutes before the item you wish to speak on.

TIME ESTIMATES
Time estimates are provided as part of the Council’s effort to manage its time at Council meetings. Listed times are estimates only and are subject to change at any time, including while the meeting is in progress. The Council reserves the right to use more or less time on any item, to change the order of items and/or to continue items to another meeting. Particular items may be heard before or after the time estimated on the agenda. This may occur in order to best manage the time at a meeting or to adapt to the participation of the public.

HEARINGS REQUIRED BY LAW
Applicants and/or appellants may have up to ten minutes at the outset of the public discussion to make their remarks and up to three minutes for concluding remarks after other members of the public have spoken.

Call to Order

Special Action Item 6:00-7:00 PM

1. Update and Discussion of the COVID-19 Health Emergency and the City’s Response- Verbal Presentation, no Report

Study Session 7:00-7:30 PM

2. Presentation of the City Manager’s Proposed Fiscal Year (FY) 2020-2021 Budget
Special Orders of the Day 7:30-7:45 PM

3. Update and Discussion Regarding the Spring 2020 Board and Commission Recruitment for Positions on the Human Relations Commission, Public Art Commission, and Utilities Advisory Commission

Agenda Changes, Additions and Deletions

Oral Communications 7:45-8:00 PM
Members of the public may speak to any item NOT on the agenda. Council reserves the right to limit the duration of Oral Communications period to 30 minutes.

Minutes Approval 8:00-8:05 PM

4. Approval of Action Minutes for the April 6, 2020 Council Meeting

Consent Calendar 8:05-8:10 PM
Items will be voted on in one motion unless removed from the calendar by three Council Members.

5. Approval of Contract Number C20177684 With Contract Sweeping Services, Inc. for Street Sweeping Services With a Five-year Term and Total Not-to-Exceed Amount of $5,608,232; and Authorization of the City Manager or Designee to Execute Contract Amendments to Memorialize any Annual Consumer Price Index Adjustments to the Compensation Rates as Provided in the Contract

6. 840 Kipling Street [18PLN-00185]: Variance Associated With an Individual Review Application for Modifications to an Existing Historic 1,192 Square Foot, One-story Single-family Home Allowing: (1) a Second-story Home Addition on a Substandard, Irregular R-2 Zoned Lot, and (2) Extension of a Non-complying Wall That Encroaches 2.5 Feet Into an Interior Side Setback; On February 26, 2020, the Planning and Transportation Commission Unanimously Recommended Approval of the Variance. This Project is Exempt From the California Environmental Quality Act (CEQA) in Accordance With CEQA Guidelines Section 15301(e)

7. Approval of the Amended and Restated Agreement for the San Francisquito Creek Joint Powers Authority (JPA) Between the Cities of Palo Alto, Menlo Park, and East Palo Alto, the Santa Clara Valley Water District, and the San Mateo County Flood and Sea Level Rise Resiliency District, to Reflect the Recent Name Change of the Latter Agency and the Current Administrative Practices of the JPA

8. Approval of Amendment Number 1 to Contract Number C16162436 With TJKM Transportation Consultants and Amendment Number 1 to
Contract Number C16163381 With Fehr and Peers for Provision of On-call Transportation Engineering Project Support Services; Each Amendment Will Extend Each Term Through April 30, 2021; and Increase Maximum Compensation by $200,000 to Each Contract for a Total Not-to-Exceed Amount of $1,000,000 per Contract

9. Adoption of an Ordinance Temporarily Suspending the Expiration of and Automatically Extending all Planning Entitlements, Building Permits, and Building Permit Applications Valid as of March 16, 2020; the Ordinance Also Suspends and Extends Municipal Code Application Processing Timelines. This Action is Exempt From the California Environmental Quality Act (CEQA) in Accordance With CEQA Guidelines Section 15061(b)(3)

City Manager Comments

Action Items

10. Adoption of a Resolution Waiving the Business Registration Fee for Calendar Year 2020 in Calendar Year 2020; Adoption of a Resolution Rescinding the Levy of Assessments for the Downtown Business Improvement District (BID) for Fiscal Year (FY) 2020; and Approval of the Reimbursement of Business Registration Fees and BID Assessments Due in 2020

Council Member Questions, Comments and Announcements
Members of the public may not speak to the item(s)

Adjournment

AMERICANS WITH DISABILITY ACT (ADA)
Persons with disabilities who require auxiliary aids or services in using City facilities, services or programs or who would like information on the City’s compliance with the Americans with Disabilities Act (ADA) of 1990, may contact (650) 329-2550 (Voice) 24 hours in advance.
Additional Information

Standing Committee Meetings

Finance Committee Meeting    April 21, 2020

Schedule of Meetings

Schedule of Meetings

Tentative Agenda

Tentative Agenda

Public Letters to Council

Set 1
Public Comment Instructions

Members of the Public may provide public comments to teleconference meetings via email, teleconference, or by phone.

1. **Written public comments** may be submitted by email to city.council@cityofpaloalto.org.

2. **Spoken public comments using a computer** will be accepted through the teleconference meeting. To address the Council, click on the link below to access a Zoom-based meeting. Please read the following instructions carefully.
   
   A. You may download the Zoom client or connect to the meeting in-browser. If using your browser, make sure you are using a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer.
   
   B. You may be asked to enter an email address and name. We request that you identify yourself by name as this will be visible online and will be used to notify you that it is your turn to speak.
   
   C. When you wish to speak on an Agenda Item, click on “raise hand.” The Clerk will activate and unmute speakers in turn. Speakers will be notified shortly before they are called to speak.
   
   D. When called, please limit your remarks to the time limit allotted.
   
   E. A timer will be shown on the computer to help keep track of your comments.

3. **Spoken public comments using a smart phone** will be accepted through the teleconference meeting. To address the Council, download the Zoom application onto your phone from the Apple App Store or Google Play Store and enter the Meeting ID below. Please follow the instructions B-E above.

4. **Spoken public comments using a phone** use the telephone number listed below. When you wish to speak on an agenda item hit *9 on your phone so we know that you wish to speak. You will be asked to provide your first and last name before addressing the Council. You will be advised how long you have to speak. When called please limit your remarks to the agenda item and time limit allotted.

https://zoom.us/join   Meeting ID: 362-027-238   Phone: 1(669)900-6833
April 20, 2020

The Honorable City Council
Palo Alto, California

Update and Discussion Regarding the Spring 2020 Board and Commission Recruitment for Positions on the Human Relations Commission, Public Art Commission, and Utilities Advisory Commission

Recommendation

Staff is requesting direction from the City Council on how to proceed with the Spring 2020 Board and Commission recruitments. Options for how to proceed have been provided by Staff for Council consideration.

Human Relations Commission

• Option 1: Continue to pause the recruitment for this Commission to a later date as determined by the City Council. Current members’ terms will roll over until replacements are appointed.
• Option 2: Re-open the recruitment for a minimum of 15 days as required by the Municipal Code. Current members’ terms will roll over until replacements are appointed by the City Council.

Note: The City has only received 1 application to fill 3 expiring positions on this Commission.

Public Art Commission

• Option 1: Continue to pause the recruitment for this Commission to a later date as determined by the City Council. Current members’ terms will roll over until replacements are appointed.
• Option 2: Re-open recruitment for a minimum of 15 days as required by the Municipal Code. Current members’ terms will roll over until replacements are appointed by the City Council.
• Option 3: Proceed with scheduling interviews with current applicants with a goal of appointments by May 31, 2020.

Note: The City has received 4 applications to fill 4 expiring positions on this Commission. One incumbent has re-applied.
Utilities Advisory Commission

- **Option 1:** Proceed with scheduling interviews with current applicants with a goal of appointments by May 31, 2020.
- **Option 2:** Re-appoint the two incumbents who have applied to fill the two expiring positions. This would be an alternative to the interview process.
- **Option 3:** Re-open recruitment for a minimum of 15 days as required by the Municipal Code. Current members’ terms will roll over until replacements are made by the City Council.

Note: The City has received 4 applications to fill 2 expiring positions on this Commission. Two incumbents have re-applied.

**Background and Discussion**


At the February 24, 2020 City Council meeting, City Council directed Staff to disband the Library Advisory Commission. The recruitment for positions on the Library Advisory Commission was closed on February 25, 2020. No applications were received, and no action is required for this Commission at this time.

The City proceeded with recruitment for the following positions:

- Three positions on the Human Relations Commission, with two positions with terms ending May 31, 2023, and one position filling a vacancy with an unexpired term ending May 31, 2021
- Four positions on the Public Art Commission, with terms ending on May 31, 2023
- Two positions on the Utilities Advisory Commission, with terms ending May 31, 2023

Due to the COVID-19 health emergency and shelter-in-place order, Staff made the decision on March 23, 2020 to temporarily pause the recruitment for the Human Relations Commission and the Public Art Commission. Since the Utilities Advisory Commission has a higher level of decision-making authority, the recruitment for those positions was left open with an extended application deadline of April 7, 2020 at 4:30 P.M.

Terms for all open positions on these Boards and Commissions expire May 31, 2020. It is important to note members with terms ending May 31 will automatically roll over until a replacement is appointed by the City Council.
Here is a summary of applications received to date:

Human Relations Commission (3 positions)
1. David Morales

Public Art Commission (4 positions)
1. Djibril Drame
2. Shannon Rose McEntee
3. Katherine Talbot
4. Nia Taylor (Incumbent)

Utilities Advisory Commission (2 positions)
1. Claude Ezran
2. Lisa Forssell (Incumbent)
3. Phil Metz
4. Lauren Segal (Incumbent)

Staff believes the recruitments for the Human Relations Commission and Public Art Commission should be reopened with a new 15-day recruitment period. However, we are looking for further direction from the City Council on how to proceed with the Spring 2020 Board and Commission recruitments.

Department Head: Beth Minor, City Clerk
The Honorable City Council
Attention: Finance Committee
Palo Alto, California

Approval of Action Minutes for the April 6, 2020 Council Meeting

Staff is requesting Council review and approve the attached Action Minutes.

ATTACHMENTS:

- Attachment4.a: Attachment A: 4-6-20 DRAFT Action Minutes (PDF)

Department Head: Beth Minor, City Clerk
Regular Meeting  
April 6, 2020

The City Council of the City of Palo Alto met on this date by virtual teleconference at 6:04 P.M.

Participating Remotely: Cormack, DuBois, Filseth, Fine, Kniss, Kou, Tanaka

Absent:

Special Action Item

1. Update and Discussion of the COVID-19 Health Emergency and the City's Response.

**MOTION:** Council Member Filseth moved, seconded by Council Member Kniss to agendize the discussion about workforce leave policy for April 13, 2020.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, “Extend the paid administrative leave to cover COVID-related loss of hours (Option A) until the end of June 2020.” (New Part A)

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to add to the Motion, “Include a cost analysis of Option A.” (New Part B)

**MOTION AS AMENDED RESTATED:** Council Member Filseth moved, seconded by Council Member Kniss to agendize the discussion about workforce leave policy for the April 13, 2020 Agenda; and:

A. Extend the paid administrative leave to cover COVID-related loss of hours (Option A) until the end of June 2020; and

B. Include a cost analysis of Option A.

**MOTION AS AMENDED PASSED:** 7-0

Council took a break at 8:30 P.M. and returned at 8:42 P.M.
MOTION: Council Member Tanaka moved, seconded by Vice Mayor DuBois to look at Mountain View's program for small businesses and direct Staff to create a proposal that could work for Palo Alto.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the motion, “Direct the City Manager to create a roundtable for businesses and non-profits.” (New Part B)

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, Part A, “and other Santa Clara County cities.”

AMENDMENT: Council Member Cormack moved, seconded by Mayor Fine to change the Motion, Part A to state, “Direct Staff to create proposals to support small businesses in Palo Alto, which could include utility bill relief, considering Mountain View and other jurisdiction’s programs; and”

AMENDMENT PASSED: 7-0

AMENDMENT: Council Member Tanaka moved, seconded by Council Member XX to explore utility bill relief for residents.

AMENDMENT WITHDRAWN BY THE MAKER

MOTION AS AMENDED RESTATED: Council Member Tanaka moved, seconded by Vice Mayor DuBois to:

A. Direct Staff to create proposals to support small businesses in Palo Alto, which could include utility bill relief, considering Mountain View and other jurisdiction’s programs; and

B. Direct the City Manager to create a roundtable for businesses.

MOTION AS AMENDED PASSED: 7-0

MOTION: Mayor Fine moved, seconded by Vice Mayor DuBois to bring the Fiscal Year 2021 budget to the full Council for development and analysis.

MOTION PASSED: 7-0

MOTION: Vice Mayor DuBois moved, seconded by Mayor Fine to direct Staff to agendize a discussion on rental assistance for low income housing and return to Council within two months.

MOTION PASSED: 7-0
DRAFT ACTION MINUTES

Minutes Approval


**MOTION:** Vice Mayor Dubois moved, seconded by Mayor Fine to approve the Action Minutes for the March 16, 2020 Palo Alto Public Improvement Corporation Meeting and the March 16 and March 23, 2020 Council Meetings.

**MOTION PASSED:** 7-0

Consent Calendar

**MOTION:** Mayor Fine moved, seconded by Council Member Cormack to approve Agenda Item Numbers 3-4.

3. Adoption of a Resolution 9883 Entitled, “Resolution of the Council of the City of Palo Alto for Senate Bill 1, the Road Repair and Accountability Act, for Fiscal Year 2021, Providing the Project List for Capital Improvement Program Project PE-86070, Street Maintenance Projects.”

4. SECOND READING: Adoption of two Ordinances, Ordinance 5493 Entitled, “Ordinance of the Council of the City of Palo Alto;”, Ordinance 5494 Entitled, “Ordinance of the Council of the City of Palo Alto Amending Various Sections of Chapter 2.08 (Officers and Departments), Chapter 2.30 (Contracts and Purchasing Procedures); Chapter 10.50 (Residential Preferential Parking Districts), Chapter 10.51 (Crescent Park no Overnight Parking Program); and Title 18 (Zoning) to Reflect Updates to the Organization of Some City Departments and Duties; Clean up the City’s Purchasing Procedures; add a new Exemption From Competitive Solicitation for Some Types of Personnel-related Services Contracts; and Update Enforcement and Hearing Procedures in the Zoning Code (FIRST READING: March 16, 2020 PASSED: 7-0).”

**MOTION PASSED:** 7-0

Action Items

DRAFT ACTION MINUTES

Council Member Kniss announced she would not be participating in this Agenda Item due to owning rental property.

MOTION:  Council Member Kou moved, seconded by Mayor Fine to:

A.  Find the proposed Ordinance exempt from the California Environmental Quality Act pursuant to Section 15301 of the CEQA Guidelines and adopt the Ordinance Establishing a Temporary Moratorium on Residential Evictions for Tenants with Substantial Income Loss Due to the COVID-19 State of Emergency; and

B.  Make sure that local businesses are aware of the Santa Clara County Ordinance that protects against commercial evictions.

MOTION PASSED:  6-0 Kniss recused

Adjournment:  The meeting was adjourned at 11:11 P.M. in deep gratitude of the work of our healthcare and public safety workers.
Summary Title: Contract Approval for Street Sweeping Services

Title: Approval of Contract Number C20177684 With Contract Sweeping Services, Inc., for Street Sweeping Services With a Five-year Term and Total Not-to-Exceed Amount of $5,608,23; and Authorization of the City Manager or Designee to Execute Contract Amendments to Memorialize any Annual Consumer Price Index Adjustments to the Compensation Rates as Provided in the Contract

From: City Manager

Lead Department: Public Works

Recommendation
Staff recommends that Council:

1. Approve and authorize the City Manager or his designee to execute Contract No. C20177684 with Contract Sweeping Services, Inc. (Attachment A), for street sweeping services, for a term of five years and a total amount not to exceed $5,608,23; and

2. Authorize the City Manager or his designee to execute contract amendments to memorialize the annual Consumer Price Index adjustments to the contractor’s compensation rates, as described in Section 6 of the contract.

Background
The Public Works Department’s Public Services Division is responsible for maintaining cleanliness throughout various City-owned public areas, including sweeping over 18,000 curb miles of streets annually. Street sweeping is a key maintenance task and requirement of State and Federal laws, including the federal Clean Water Act National Pollution Discharge Elimination System (NPDES) and the California State Water Resources Control Board. Street sweeping removes leaves, trash, and particulate debris such as metal particles from street surfaces and gutters, preventing these materials from entering the storm drain system and San Francisco Bay. The current street sweeping contract expires on April 24, 2020.

Discussion
Staff recommends Council approve a five-year contract with Contract Sweeping Services, Inc., to allow for the continuation of street sweeping, debris management, and unscheduled or
emergency services from April 27, 2020 through April 25, 2025. The sweeping services and frequency will remain unchanged from previous years for University and California Avenue business districts (3 times per week), El Camino Real (weekly), and biweekly for residential and light commercial areas. Frequency for residential and light commercial areas increases to weekly during “leaf season,” which typically occurs between mid-October and mid-February.

This contract is on the City’s General Services template, which permits the City to terminate without cause/for convenience by providing written notice to the contractor. In the event the City finds itself facing a challenging budget situation, and it is determined that City resources need to be refocused elsewhere, the City can terminate for convenience. Other options include termination due to non-appropriation of funds or amending the contract to reduce the cost, for example, by reducing the scope of work.

A Request for Proposal (RFP) for street sweeping services was distributed to potential sweeping contractors via planetbids.com and builder’s exchanges on February 5, 2020. A proposal was received from one qualified contractor on February 26, 2020. A summary of the proposal is included in Table 1.

<table>
<thead>
<tr>
<th>Table 1: Summary of Request for Proposal Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal Number / Name</td>
</tr>
<tr>
<td>Proposed Length of Project</td>
</tr>
<tr>
<td>Vendors Notified</td>
</tr>
<tr>
<td>Total Days to Respond to RFP</td>
</tr>
<tr>
<td>Number of Firms at Pre-Proposal Meeting</td>
</tr>
<tr>
<td>Number of Proposals Received</td>
</tr>
<tr>
<td>Proposal Price for Base Services for First Year</td>
</tr>
</tbody>
</table>

The single proposal was received from the City’s current street sweeping contractor. Staff contacted two contractors who did not submit proposals and inquired why the vendors chose not to participate. The primary reasons include the large size of the service area and complexity of work, that includes sweeping the entire City; alternating services between “leaf season” and “non-leaf season” which creates logistical problems for both equipment and staffing; sweeping of two business districts three nights a week; debris hauling; unscheduled and emergency services required to handle unforeseen events such as auto accidents or disaster events; handwork that may require additional equipment to address areas inaccessible to street sweepers; and, due to the complexity of the work, are unable to provide the needed labor and equipment to perform what is required in the scope of work.

An evaluation committee consisting of three staff members from the Public Works Department’s Public Services and Environmental Services Divisions evaluated the one proposal received. Staff determined Contract Sweeping Services, Inc. was responsive to the City’s needs, met all evaluation criteria and is a qualified proposer. In addition, Contract Sweeping Services,
Inc. has been providing reliable street sweeping and sweeping debris hauling services for the City for the past five years and has provided a level of service that is acceptable to City staff. Their personnel, from management to office and field staff, are flexible and responsive to the City’s service requests and adept at responding to any complaints from City staff or residents. Staff has also checked with the Contractors State License Board and confirmed the contractor has an active license on file.

The price for basic services for the first contract year is $941,302. This is 39 percent higher than the current contract’s fifth year amount of $677,002 for base services (see Attachment B for a comparison). This higher amount includes an additional $25,000 for handwork and equipment (Task 3 – Non-routine Street Sweeping) that are now required for cleaning areas not accessible to street sweepers and areas that contain recently-built features such as protected bike lanes along Middlefield Road and Arastradero Road. In addition to handwork that is included in this contract, there are several drivers that resulted in a cost increase for these services. First, the Contractor must purchase two new sweepers to meet the City’s requirement that all sweepers operating in the City shall be five years or newer for the duration of the Contract. Operationally, a minimum of four street sweepers operate during leaf season on residential streets, one operates for night work within business districts, and spare sweepers are needed due to the high rate of failure for this type of equipment. New regulatory requirements by the California Air Resource Board (CARB) and Environmental Protection Agency (EPA) have driven sweeper prices from $160,000 to upwards of $250,000.

The second driver of the cost increase is increased wages that include adjustments for minimum wage, staff retention and job market competitiveness in the Bay Area, and higher costs to insure and maintain equipment. The previous contract with the vendor was bid at a much lower cost than the other proposer by approximately $600,000 annually. The proposed pricing in this new contract partially adjusts for this difference plus adjustments for labor, equipment, maintenance, and insurance as described above.

**Timeline**
The five-year contract with Contract Sweeping Services, Inc. has a contract term from April 27, 2020 through April 25, 2025.

**Resource Impact**
Funding for the street sweeping contract is appropriated in the Refuse Fund Operating Budget. There is an increase of $264,300 (39 percent, as above) in the cost for the first contract year compared to the last contract year of the existing (expiring) contract; however, there is sufficient funding encumbered in FY 2020 in the current contract to cover the increased cost of the new contract. As a result, a budget adjustment is not being recommended for FY 2021 as the budget for the contract was already allocated in the FY 2020 adopted budget and funding for FY 2021 will be allocated through current encumbered funding. The annual estimated budget for the subsequent contract years is shown in Table 2, which includes an estimated annual average of four percent increase based on the Consumer Price Index for Urban Wage
Earners and Clerical Workers for the San Francisco-Oakland-San Jose area (CPI). Any future need for an annual contract budget adjustment for a subsequent contract year will be addressed in the development of the FY 2022 budget and recommended to Council through the annual budget development process.

*Table 2: Estimated Contract Costs assuming 4% annual CPI adjustments*

<table>
<thead>
<tr>
<th>Year</th>
<th>Base Service</th>
<th>Additional Services</th>
<th>Total Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Refuse Fund - FY21</td>
<td>$941,302</td>
<td>$94,130</td>
<td>$1,035,432</td>
</tr>
<tr>
<td>Refuse Fund - FY22</td>
<td>$978,954</td>
<td>$97,895</td>
<td>$1,076,849</td>
</tr>
<tr>
<td>Refuse Fund - FY23</td>
<td>$1,018,112</td>
<td>$101,811</td>
<td>$1,119,923</td>
</tr>
<tr>
<td>Refuse Fund - FY24</td>
<td>$1,058,836</td>
<td>$105,848</td>
<td>$1,164,720</td>
</tr>
<tr>
<td>Refuse Fund - FY25</td>
<td>$1,101,189</td>
<td>$110,119</td>
<td>$1,211,308</td>
</tr>
<tr>
<td>Total for five years</td>
<td>$5,098,393</td>
<td>$509,839</td>
<td>$5,608,232</td>
</tr>
</tbody>
</table>

**Policy Implications**
This recommendation does not represent any change to existing City policies.

**Stakeholder Engagement**
Stakeholder engagement is not required for this contract because it is a continuation of the same level and frequency of street sweeping services.

**Environmental Review**
The recommended action is CEQA-exempt under the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility of a significant effect on the environment.

**Attachments:**
- **Attachment5.a:** Attachment A - General Services Contract No. C20177684 with Sweeping Services, Inc.
- **Attachment5.b:** Attachment B - Fee Comparison of 2014 Contract and Proposed Pricing
CITY OF PALO ALTO CONTRACT NO. C20177684

GENERAL SERVICES AGREEMENT

THIS AGREEMENT made and entered into on the 20th day of APRIL, 2020, by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and CONTRACT SWEEPING SERVICES, INC., a California corporation, located at 760 E. Capitol Avenue, Milpitas, Ca 95035, Telephone Number: 408-639-6005 (“CONTRACTOR”). In consideration of their mutual covenants, the parties hereto agree as follows:

1. SERVICES. CONTRACTOR shall provide or furnish the services (the “Services”) described in the Scope of Services, attached at Exhibit A.

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

- “A” - Scope of Services
- “A-2” - Maps
- “B” - Schedule of Performance
- “C” - Schedule of Fees
- “D” - Insurance Requirements

CONTRACT IS NOT COMPLETE UNLESS ALL INDICATED EXHIBITS ARE ATTACHED.

3. TERM. The term of this Agreement is from April 27, 2020 to April 25, 2025 inclusive, subject to the provisions of Sections R and W of the General Terms and Conditions.

4. SCHEDULE OF PERFORMANCE. CONTRACTOR shall complete the Services within the term of this Agreement in a reasonably prompt and timely manner based upon the circumstances and direction communicated to CONTRACTOR, and if applicable, in accordance with the schedule set forth in the Schedule of Performance, attached at Exhibit B. Time is of the essence in this Agreement.

5. COMPENSATION FOR ORIGINAL TERM. CITY shall pay and CONTRACTOR agrees to accept as not-to-exceed compensation for the full performance of the Services and reimbursable expenses, if any:

☐ The total maximum lump sum compensation of dollars ($ )

City of Palo Alto General Services Agreement 1 Rev. March 29, 2018
OR

- The sum of dollars ($ ) per hour, not to exceed a total maximum compensation amount of dollars ($ ); OR

- A sum calculated in accordance with the fee schedule set forth at Exhibit C, not to exceed a total maximum compensation amount of Five Million Six Hundred Eight Thousand Two Hundred Thirty-Two ($5,608,232.00).

CONTRACTOR agrees that it can perform the Services for an amount not to exceed the total maximum compensation set forth above. Any hours worked or services performed by CONTRACTOR for which payment would result in a total exceeding the maximum amount of compensation set forth above for performance of the Services shall be at no cost to CITY.

CITY has set aside the sum of Ninety-Four Thousand One Hundred Thirty dollars ($94,130) for Additional Services for contract year 1, adjusted for successive contract years within the term of the Agreement in relation to the Consumer Price Index as detailed in Section 6 (Compensation for Successive Contract Years During the Term). CONTRACTOR shall provide Additional Services only by advanced, written authorization from the City Manager or designee. CONTRACTOR, at the CITY's request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and CONTRACTOR's proposed maximum compensation, including reimbursable expense, for such services. Compensation shall be based on the hourly rates set forth above or in Exhibit C (whichever is applicable), or if such rates are not applicable, a negotiated lump sum. CITY shall not authorize and CONTRACTOR shall not perform any Additional Services for which payment would exceed the amount set forth above for Additional Services. Payment for Additional Services is subject to all requirements and restrictions in this Agreement.

6. COMPENSATION FOR SUCCESSIVE CONTRACT YEARS DURING THE TERM.

- CONTRACTOR’S compensation rates for each successive contract year during the term shall be the same; OR

- CONTRACTOR’s compensation rates for each successive contract year during the term shall be adjusted effective on the commencement of each such successive contract year. The lump sum compensation amount, hourly rates, or fees, whichever is applicable as set forth in Section 5
above, shall be adjusted by a percentage equal to the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland- San Jose area, published by the United States Department of Labor Statistics (CPI) which is published most immediately preceding the commencement of the applicable successive contract year, which shall be compared with the CPI published most immediately preceding the commencement date of the then expiring contract year. Notwithstanding the foregoing, in no event shall CONTRACTOR’s compensation rates be increased by an amount exceeding five percent (5%) of the rates effective during the immediately preceding contract year during the term. Any adjustment to CONTRACTOR’s compensation rates shall be reflected in a written amendment to this Agreement.

7. **CLAIMS PROCEDURE FOR “9204 PUBLIC WORKS PROJECTS”**. For purposes of this Section 7, a “9204 Public Works Project” means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind. Public Contract Code Section 9204 mandates certain claims procedures for Public Works Projects, which are set forth in “Appendix __ Claims for Public Contract Code Section 9204 Public Works Projects”.

☐ This project is a 9204 Public Works Project and is required to comply with the claims procedures set forth in Appendix __, attached hereto and incorporated herein.

OR

☑ This project is not a 9204 Public Works Project.

8. **INVOICING**. Send all invoices to CITY, Attention: Project Manager. The Project Manager is: Roger Nguy Dept.: Public Works, Public Services Division, Telephone: 650-496-6913 email: Roger.Nguy@Cityofpaloalto.org. Invoices shall be submitted in arrears for Services performed. Invoices shall not be submitted more frequently than monthly. Invoices shall provide a detailed statement of Services performed during the invoice period and are subject to verification by CITY. CITY shall pay the undisputed amount of invoices within 30 days of receipt.

**GENERAL TERMS AND CONDITIONS**
A. **ACCEPTANCE.** CONTRACTOR accepts and agrees to all terms and conditions of this Agreement. This Agreement includes and is limited to the terms and conditions set forth in sections 1 through 8 above, these general terms and conditions and the attached exhibits.

B. **QUALIFICATIONS.** CONTRACTOR represents and warrants that it has the expertise and qualifications to complete the services described in Section 1 of this Agreement, entitled “SERVICES,” and that every individual charged with the performance of the services under this Agreement has sufficient skill and experience and is duly licensed or certified, to the extent such licensing or certification is required by law, to perform the Services. CITY expressly relies on CONTRACTOR’s representations regarding its skills, knowledge, and certifications. CONTRACTOR shall perform all work in accordance with generally accepted business practices and performance standards of the industry, including all federal, state, and local operation and safety regulations.

C. **INDEPENDENT CONTRACTOR.** It is understood and agreed that in the performance of this Agreement, CONTRACTOR and any person employed by CONTRACTOR shall at all times be considered an independent CONTRACTOR and not an agent or employee of CITY. CONTRACTOR shall be responsible for employing or engaging all persons necessary to complete the work required under this Agreement.

D. **SUBCONTRACTORS.** CONTRACTOR may not use subcontractors to perform any Services under this Agreement unless CONTRACTOR obtains prior written consent of CITY. CONTRACTOR shall be solely responsible for directing the work of approved subcontractors and for any compensation due to subcontractors.

E. **TAXES AND CHARGES.** CONTRACTOR shall be responsible for payment of all taxes, fees, contributions or charges applicable to the conduct of CONTRACTOR’s business.

F. **COMPLIANCE WITH LAWS.** CONTRACTOR shall in the performance of the Services comply with all applicable federal, state and local laws, ordinances, regulations, and orders.

G. **PALO ALTO MINIMUM WAGE ORDINANCE.** CONTRACTOR shall comply with all requirements of the Palo Alto Municipal Code Chapter 4.62 (Citywide Minimum Wage), as it may be amended from time to time. In particular, for any employee otherwise entitled to the State minimum wage, who performs at least two (2) hours of work in a calendar week within the geographic boundaries of the City, CONTRACTOR shall pay such employees no less than the minimum wage set forth

**H. DAMAGE TO PUBLIC OR PRIVATE PROPERTY.** CONTRACTOR shall, at its sole expense, repair in kind, or as the City Manager or designee shall direct, any damage to public or private property that occurs in connection with CONTRACTOR’s performance of the Services. CITY may decline to approve and may withhold payment in whole or in part to such extent as may be necessary to protect CITY from loss because of defective work not remedied or other damage to the CITY occurring in connection with CONTRACTOR’s performance of the Services. CITY shall submit written documentation in support of such withholding upon CONTRACTOR’s request. When the grounds described above are removed, payment shall be made for amounts withheld because of them.

**I. WARRANTIES.** CONTRACTOR expressly warrants that all services provided under this Agreement shall be performed in a professional and workmanlike manner in accordance with generally accepted business practices and performance standards of the industry and the requirements of this Agreement. CONTRACTOR expressly warrants that all materials, goods and equipment provided by CONTRACTOR under this Agreement shall be fit for the particular purpose intended, shall be free from defects, and shall conform to the requirements of this Agreement. CONTRACTOR agrees to promptly replace or correct any material or service not in compliance with these warranties, including incomplete, inaccurate, or defective material or service, at no further cost to CITY. The warranties set forth in this section shall be in effect for a period of one year from completion of the Services and shall survive the completion of the Services or termination of this Agreement.

**J. MONITORING OF SERVICES.** CITY may monitor the Services performed under this Agreement to determine whether CONTRACTOR’s work is completed in a satisfactory manner and complies with the provisions of this Agreement.

**K. CITY’S PROPERTY.** Any reports, information, data or other material (including copyright interests) developed, collected, assembled, prepared, or caused to be prepared under this Agreement will become the property of CITY without restriction or limitation upon their use and will not be made available to any individual or organization by CONTRACTOR or its subcontractors, if any, without the prior written approval of the City Manager.
L. AUDITS. CONTRACTOR agrees to permit CITY and its authorized representatives to audit, at any reasonable time during the term of this Agreement and for three (3) years from the date of final payment, CONTRACTOR’s records pertaining to matters covered by this Agreement. CONTRACTOR agrees to maintain accurate books and records in accordance with generally accepted accounting principles for at least three (3) following the terms of this Agreement.

M. NO IMPLIED WAIVER. No payment, partial payment, acceptance, or partial acceptance by CITY shall operate as a waiver on the part of CITY of any of its rights under this Agreement.

N. INSURANCE. CONTRACTOR, at its sole cost, shall purchase and maintain in full force during the term of this Agreement, the insurance coverage described at Exhibit D. Insurance must be provided by companies with a Best’s Key Rating of A-:VII or higher and which are otherwise acceptable to CITY’s Risk Manager. The Risk Manager must approve deductibles and self-insured retentions. In addition, all policies, endorsements, certificates and/or binders are subject to approval by the Risk Manager as to form and content. CONTRACTOR shall obtain a policy endorsement naming the City of Palo Alto as an additional insured under any general liability or automobile policy. CONTRACTOR shall obtain an endorsement stating that the insurance is primary coverage and will not be canceled or materially reduced in coverage or limits until after providing 30 days prior written notice of the cancellation or modification to the Risk Manager. CONTRACTOR shall provide certificates of such policies or other evidence of coverage satisfactory to the Risk Manager, together with the required endorsements and evidence of payment of premiums, to CITY concurrently with the execution of this Agreement and shall throughout the term of this Agreement provide current certificates evidencing the required insurance coverages and endorsements to the Risk Manager. CONTRACTOR shall include all subcontractors as insured under its policies or shall obtain and provide to CITY separate certificates and endorsements for each subcontractor that meet all the requirements of this section. The procuring of such required policies of insurance shall not operate to limit CONTRACTOR’s liability or obligation to indemnify CITY under this Agreement.

O. HOLD HARMLESS. To the fullest extent permitted by law and without limitation by the provisions of section N relating to insurance, CONTRACTOR shall indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents from and against any and all demands, claims, injuries, losses, or liabilities of any nature, including death or injury to any person, property damage or any other loss and including without limitation all damages, penalties, fines and judgments, associated investigation and administrative expenses and defense costs, including, but not limited to reasonable attorney’s fees, courts costs and
costs of alternative dispute resolution), arising out of, or resulting in any way from or in connection with the performance of this Agreement. CONTRACTOR’s obligations under this Section apply regardless of whether or not a liability is caused or contributed to by any negligent (passive or active) act or omission of CITY, except that CONTRACTOR shall not be obligated to indemnify for liability arising from the sole negligence or willful misconduct of CITY. The acceptance of the Services by CITY shall not operate as a waiver of the right of indemnification. The provisions of this Section survive the completion of the Services or termination of this Agreement.

P. NON-DISCRIMINATION. As set forth in Palo Alto Municipal Code section 2.30.510, CONTRACTOR certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person because of the race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height of such person. CONTRACTOR acknowledges that it has read and understands the provisions of Section 2.30.510 of the Palo Alto Municipal Code relating to Nondiscrimination Requirements and the penalties for violation thereof, and agrees to meet all requirements of Section 2.30.510 pertaining to nondiscrimination in employment.

Q. WORKERS’ COMPENSATION. CONTRACTOR, by executing this Agreement, certifies that it is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that Code, and certifies that it will comply with such provisions, as applicable, before commencing and during the performance of the Services.

R. TERMINATION. The City Manager may terminate this Agreement without cause by giving ten (10) days’ prior written notice thereof to CONTRACTOR. If CONTRACTOR fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, the City Manager may terminate this Agreement immediately upon written notice of termination. Upon receipt of such notice of termination, CONTRACTOR shall immediately discontinue performance. CITY shall pay CONTRACTOR for services satisfactorily performed up to the effective date of termination. If the termination is for cause, CITY may deduct from such payment the amount of actual damage, if any, sustained by CITY due to CONTRACTOR’s failure to perform its material obligations under this Agreement. Upon termination, CONTRACTOR shall immediately deliver to the City Manager any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed, prepared by CONTRACTOR or given to CONTRACTOR, in connection with this Agreement. Such materials shall become the property of CITY.
S. **ASSIGNMENTS/CHANGES.** This Agreement binds the parties and their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written consent of CITY. No amendments, changes or variations of any kind are authorized without the written consent of CITY. This Agreement may be amended only by written instrument executed by the authorized representatives of the parties and approved as required under Palo Alto Municipal Code.

T. **CONFLICT OF INTEREST.** In accepting this Agreement, CONTRACTOR covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. CONTRACTOR further covenants that, in the performance of this Agreement, it will not employ any person having such an interest. CONTRACTOR certifies that no CITY officer, employee, or authorized representative has any financial interest in the business of CONTRACTOR and that no person associated with CONTRACTOR has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. CONTRACTOR agrees to advise CITY if any conflict arises.

U. **GOVERNING LAW.** This Agreement shall be governed and interpreted by the laws of the State of California.

V. **ENTIRE AGREEMENT.** This Agreement, including all exhibits, represents the entire agreement between the parties with respect to the services that may be the subject of this Agreement. Any variance in the exhibits does not affect the validity of the Agreement and the Agreement itself controls over any conflicting provisions in the exhibits. This Agreement supersedes all prior agreements, representations, statements, negotiations and undertakings whether oral or written.

W. **NON-APPROPRIATION.** This Agreement is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code. This Agreement will terminate without any penalty (a) at the end of any fiscal year in the event that funds are not appropriated for the following fiscal year, or (b) at any time within a fiscal year in the event that funds are only appropriated for a portion of the fiscal year and funds for this Agreement are no longer available. This Section shall take precedence in the event of a conflict with any other covenant, term, condition, or provision of this Agreement.

X. **ENVIRONMENTALLY PREFERRED PURCHASING AND ZERO WASTE REQUIREMENTS.** CONTRACTOR shall comply with CITY’s Environmentally Preferred Purchasing policies which are available at CITY’s Purchasing Division,
which are incorporated by reference and may be amended from time to time. CONTRACTOR shall comply with waste reduction, reuse, recycling and disposal requirements of CITY’s Zero Waste Program. Zero Waste best practices include first minimizing and reducing waste; second, reusing waste and third, recycling or composting waste. In particular, CONTRACTOR shall comply with the following zero waste requirements:

- All printed materials provided by CONTRACTOR to CITY generated from a personal computer and printer including but not limited to, proposals, quotes, invoices, reports, and public education materials, shall be double-sided and printed on a minimum of 30% or greater post-consumer content paper, unless otherwise approved by CITY’s Project Manager. Any submitted materials printed by a professional printing company shall be a minimum of 30% or greater post-consumer material and printed with vegetable based inks.
- Goods purchased by Contractor on behalf of CITY shall be purchased in accordance with CITY’s Environmental Purchasing Policy including, but not limited to, Extended Producer Responsibility requirements for products and packaging. A copy of this policy is on file at the Purchasing Division’s office.
- Reusable/returnable pallets shall be taken back by CONTRACTOR, at no additional cost to CITY, for reuse or recycling. CONTRACTOR shall provide documentation from the facility accepting the pallets to verify that pallets are not being disposed.

Y. AUTHORITY. The individual(s) executing this Agreement on behalf of the parties represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

Z. PREVAILING WAGES

☒ This Project is not subject to prevailing wages. CONTRACTOR is not required to pay prevailing wages in the performance and implementation of the Project in accordance with SB 7, if the Agreement is not a public works contract, if Agreement does not include a public works construction project of more than $25,000, or the Agreement does not include a public works alteration, demolition, repair, or maintenance (collectively, ‘improvement’) project of more than $15,000.

OR
Contractor is required to pay general prevailing wages as defined in Subchapter 3, Title 8 of the California Code of Regulations and Section 16000 et seq. and Section 1773.1 of the California Labor Code. Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the City Council has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of worker needed to execute the Agreement for this Project from the Director of the Department of Industrial Relations (“DIR”). Copies of these rates may be obtained at the Purchasing Division’s office of the City of Palo Alto. Contractor shall provide a copy of prevailing wage rates to any staff or subcontractor hired, and shall pay the adopted prevailing wage rates as a minimum. Contractor shall comply with the provisions of all sections, including, but not limited to, Sections 1775, 1776, 1777.5, 1782, 1810, and 1813, of the Labor Code pertaining to prevailing wages.

AA. DIR REGISTRATION. In regard to any public work construction, alteration, demolition, repair or maintenance work, CITY will not accept a bid proposal from or enter into this Agreement with CONTRACTOR without proof that CONTRACTOR and its listed subcontractors are registered with the California Department of Industrial Relations (“DIR”) to perform public work, subject to limited exceptions. City requires CONTRACTOR and its listed subcontractors to comply with the requirements of SB 854.

CITY provides notice to CONTRACTOR of the requirements of California Labor Code section 1771.1(a), which reads:

“A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the Agreement is awarded.”

CITY gives notice to CONTRACTOR and its listed subcontractors that CONTRACTOR is required to post all job site notices prescribed by law or regulation and CONTRACTOR is subject to SB 854-compliance monitoring and enforcement by DIR.

CITY requires CONTRACTOR and its listed subcontractors to comply with the requirements of Labor Code section 1776, including:
Keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by, respectively, CONTRACTOR and its listed subcontractors, in connection with the Project.

The payroll records shall be verified as true and correct and shall be certified and made available for inspection at all reasonable hours at the principal office of CONTRACTOR and its listed subcontractors, respectively.

At the request of CITY, acting by its project manager, CONTRACTOR and its listed subcontractors shall make the certified payroll records available for inspection or furnished upon request to the project manager within ten (10) days of receipt of CITY’s request.

[For state- and federally-funded projects] CITY requests CONTRACTOR and its listed subcontractors to submit the certified payroll records to the project manager at the end of each week during the Project.

If the certified payroll records are not produced to the project manager within the 10-day period, then CONTRACTOR and its listed subcontractors shall be subject to a penalty of one hundred dollars ($100.00) per calendar day, or portion thereof, for each worker, and CITY shall withhold the sum total of penalties from the progress payment(s) then due and payable to CONTRACTOR.

Inform the project manager of the location of CONTRACTOR’s and its listed subcontractors’ payroll records (street address, city and county) at the commencement of the Project, and also provide notice to the project manager within five (5) business days of any change of location of those payroll records.

BB. CONTRACT TERMS. All unchecked boxes do not apply to this Agreement. In the case of any conflict between the terms of this Agreement and the exhibits hereto or CONTRACTOR’s proposal (if any), the Agreement shall control. In the case of any conflict between the exhibits hereto and CONTRACTOR’s proposal, the exhibits shall control.
IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement on the date first above written.

CITY OF PALO ALTO

________________________________________
City Manager or Designee

Approved as to form:

________________________________________
City Attorney or Designee

CONTRACT SWEEPING SERVICES, INC.

By

Joe Vella
Owner

Name

By

Gina Vella
President

Name

City of Palo Alto General Services Agreement

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Rev. March 29, 2018
EXHIBIT A
SCOPE OF SERVICES

The CONTRACTOR will provide the Services as detailed in this Exhibit A, Scope of Services, and elsewhere in this Agreement. CONTRACTOR’s Proposal, submitted in response to the City’s Request for Proposals (RFP) no. 177684 for Street Sweeping Services, is hereby attached and incorporated into this Agreement as though fully set forth herein. In the event of a conflict between this Agreement and the Proposal, this Agreement shall control.

DEFINITIONS AND TERMS

Curb Mile - Curb mile shall be defined as the distance the sweeping machine travels with an effective sweeping width of eight (8) feet from the curb face along an improved or unimproved street.

Leaf Season - The four months of the year when leaf fall is the heaviest. This period typically runs from October 15th until February 15th. This timeframe is subject to change, and will be communicated to CONTRACTOR by the Director of Public Works or his/her designee.

Non-Leaf Season – The eight months of the year where leaf fall is not expected to be heavy. This period typically runs from February 16th through October 14th. This timeframe is subject to change, and will be communicated to CONTRACTOR by the Director of Public Works or his/her designee.

Street Debris - All loose, inert, dry waste material including refuse, dirt, rocks, sticks (including small tree branches), cardboard, sand, glass, metal fragments, cans, bottles, leaves and typical street litter. Street debris does not include waste materials in the catch basins of storm drains.

Sweeping Path - Specified paved surface distance from curb face or pavement edge in which Scheduled Service is to be performed.

Scheduled Service - Sweeping frequency as defined in this Agreement which must be performed on the schedule set forth herein unless mutually agreed upon in advance by the CITY and CONTRACTOR.

Unscheduled Service - That service which can be requested by the CITY to be performed outside the bounds of the scheduled service which can be requested a minimum of twenty-four (24) hours in advance.
Emergency Service - That service which can be requested by the CITY to be performed outside the bounds of the scheduled service within two (2) hours of being notified to provide such service.

SERVICES OVERVIEW

The CONTRACTOR will provide street sweep services for the CITY’s residential and light commercial streets at the frequencies specified below. CONTRACTOR shall also collect and transport the sweeping debris and material to the Sunnyvale Materials Recovery and Transfer Station (SMaRT) where the CITY will pay the disposal fees. CONTRACTOR shall also provide additional services as requested by the CITY that includes: 1) Emergency responses; 2) unscheduled services; and 3) additional debris management and transportation services. Sweeping of parking lots, garages, and bike path is not included in this Agreement, this work is currently being completed by a separate contract and by in-house staff and equipment. A map detailing the sweeping operations in the CITY is located online and available here:
https://www.cityofpaloalto.org/streetsweeping

CONTRACTOR STAFFING QUALIFICATIONS
All employees of CONTRACTOR shall be properly licensed to operate assigned equipment used for sweeping the City, as determined by local, state, and federal regulations.

TASKS
The CONTRACTOR’s provision of the Services under this Agreement shall include all of the supervision, vehicles, fuel, labor, materials, tools, equipment, daily/monthly reports and all other items necessary to complete said work in accordance with this Agreement.

Task 1 – STREET SWEEPING SERVICES

Types of Sweeping Services:

Scheduled Service - CONTRACTOR shall furnish scheduled sweeping service for all streets designated by CITY at the time of the execution of this Agreement. All designated streets require sweeping along the curb and gutter, including the flowline, and some streets also require sweeping along the median curb or centerline. Sweeping shall be up to the edge of pavement on unimproved streets, as designated by the CITY’s Project Manager. After execution of the contract, CITY at its sole discretion, may add or delete streets or portions of streets at the agreed contract rate.
Frequency of Service - Residential and Light Commercial areas as shown on the attached map shall be swept once a week during the leaf season, as defined by CITY, and bi-weekly during the rest of the year. University Avenue and California Avenue Routes (BA) shall be swept three times a week (Monday, Wednesday, and Friday) year round. In the event one of these three days falls on a holiday, frequency shall be twice a week, as determined by CITY. Center medians and centerlines that exist in any given route shall be swept in conjunction with regular sweeping.

The Breakdown of Routes is as follows:
- **Monday** – BA, B9, B5B, B5A, B1, B3
- **Tuesday** – D1, D2 RES, D2 IND, A6, A3, B2
- **Wednesday** – BA, D3, A1, A2, A5
- **Thursday** – A5 IND, B8 IND, B8 RES, A7, B7, B6
- **Friday** – BA, A4, B4

CITY may reorganize the daily breakdown of routes at its sole discretion. In the event of any changes being made to the routine sweeping service, a two (2) week notice will be provided to CONTRACTOR.

**Curb Mileage** - The following table illustrates the current sweeping inventory and frequency:

<table>
<thead>
<tr>
<th>Category</th>
<th>Curb Miles</th>
<th>Frequency</th>
<th>Average Miles/Month</th>
<th>Average Miles/Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential / Leaf Season</td>
<td>345.11</td>
<td>Weekly</td>
<td>1,495.50</td>
<td>5,982</td>
</tr>
<tr>
<td>Residential / Non-Leaf Season</td>
<td>345.11</td>
<td>Bi-Weekly</td>
<td>747.75</td>
<td>5,982</td>
</tr>
<tr>
<td>Light Commercial / Leaf Season</td>
<td>47.69</td>
<td>Weekly</td>
<td>206.66</td>
<td>826.64</td>
</tr>
<tr>
<td>Light Commercial / Non-Leaf Season</td>
<td>47.69</td>
<td>Bi-Weekly</td>
<td>103.33</td>
<td>826.64</td>
</tr>
<tr>
<td>Downtown University Ave &amp; California Ave</td>
<td>23.92</td>
<td>3 times / Week</td>
<td>310.96</td>
<td>3,731.52</td>
</tr>
<tr>
<td>El Camino Real*</td>
<td>18.68</td>
<td>Weekly</td>
<td>80.95</td>
<td>971.36</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td>18,320.16</td>
</tr>
</tbody>
</table>
Prior to the issuance of a Notice To Proceed (NTP), CONTRACTOR shall obtain an encroachment permit for sweeping on El Camino Real. This permit is available from CalTrans, and all costs associated with the encroachment permit will be assumed by CONTRACTOR. The cost of the encroachment permit is approximately $164 renewable on an annual basis. Permits can be obtained by calling CalTrans at (510) 286-4401.

Actual total will be reduced by holidays, weather, and any other reasons CONTRACTOR does not provide scheduled service.

Days and Hours of Operation - Scheduled service shall be Monday through Friday only. Sweeping of residential areas shall not start before 7:00 a.m. or continue after 4:30 p.m., on the same day, unless otherwise directed by the Project Manager. Light commercial areas shall be swept between 3:30 a.m. and 12:00 noon on the same day. Sweeping shall be scheduled to maximize the area of street being swept by minimizing interference by parked vehicles. Sweeping shall be scheduled and done in such a way as to minimize noise complaints in residential areas. Downtown University and California Avenue (Route BA) sweeping shall be three times a week on Monday, Wednesday, and Friday between 10:00 p.m. and 7:00 a.m. Posted No Parking sweeping area, currently labeled “C” on sweeping map, shall be swept one side of street each Tuesday, year round, at time specified and according to existing program. Additional Posted No Parking sweeping areas may be added to the map in the future, the CONTRACTOR will receive a minimum of two week notice prior to any changes taking place, at that time, the CONTRACTOR shall make appropriate adjustments to accommodate the new route requirements, at no additional cost to the CITY. The Public Works Director, or his designee, may require revisions in the hours and/or manner of operation as necessary to maximize sweeping coverage, to minimize noise complaints, or to coincide with CITY staff working hours.

CONTRACTOR shall provide an adequate number of sweepers to perform work on a daily basis to sufficiently remove the amount of debris that may be on the roads for both “leaf season” and non-leaf season. CITY recommends a minimum of four (4) sweepers on a daily basis during leaf season, which typically runs from October 15th through February 15th. CITY recommends a minimum of two (2) sweepers on a daily basis during non-leaf season, which typically occurs from February 16th to October 14th. The number of sweepers listed in the proposal by the CONTRACTOR on a daily basis (four (4) sweepers during leaf season and two (2) sweepers during non-leaf season) may be reduced with prior written approval from the CITY’s Project Manager, which typically requires proof that the same or better level of service can be achieved with less equipment. On the contrary, CITY may require CONTRACTOR to provide additional sweepers, at no additional cost to CITY, if CITY determines at any time that the number of sweepers mobilized by the CONTRACTOR are inadequate to complete the work in a timely manner.
Street sweeping is a very important service provided by the CITY and residents have high expectations. CONTRACTOR shall minimize or eliminate disruptions to this important service, by providing 24/7 management support to CITY and with the availability of multiple spare sweepers, to help mitigate the occasional missed street sweeping due to a variety of reasons, including operator errors or equipment malfunctions.

University Avenue Sweeping – Sweeping of University Ave. (Route BA) – CONTRACTOR shall coordinate with a Palo Alto employee who will assist with the sweeping. The employee will use a backpack leaf blower to push debris directly into the path of the sweeper. Sweeping of this area typically occurs three (3) times a week, and shall commence at approximately 3:45 A.M. Contact information for the Palo Alto employee(s) responsible for these duties will be furnished to CONTRACTOR for coordination purposes.

Additions and Deletions - CITY reserves the right to add or delete curb miles and to increase or reduce the sweeping frequency called for in these specifications. The bid price per curb mile for Task 1 under Schedule of Fees will be used to calculate the amount paid to CONTRACTOR for additions or deletions of curb miles.

Holidays - There will be no sweeping on the following observed holidays: New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran’s Day, Thanksgiving, and Christmas. When routes are not swept due to a holiday, CONTRACTOR shall make-up the missed routes on either the previous business day or the following business day by sweeping the routes missed due to the holiday, along with the regularly scheduled routes.

Vehicles - It is understood that if vehicles are parked on the streets when services are being performed by CONTRACTOR, then CONTRACTOR’s operations will be impeded and CONTRACTOR will be required to bypass said parked vehicles. In such events, the rates charged by CONTRACTOR shall not be reduced.

Trees – If trees along the sweeping route impede CONTRACTOR’s ability to effectively sweep curbed area, CONTRACTOR shall note the location of tree on the “Daily Report of Street Sweeper” form. This information shall be reported to the CITY by CONTRACTOR within 24 hours. If a downed tree or limb from a tree is observed in the street, CONTRACTOR shall immediately notify the Palo Alto Tree Section at (650) 496-5953.

Level of Cleanliness - Level of cleanliness shall be defined as the absence of "street debris" in the streets and gutters upon the completion of the sweeping operation.

Payment - Payment will be for one pass only, and no separate payment will be made for additional passes needed to remove street debris. However, if CONTRACTOR does
not pick up the debris in one pass, then CONTRACTOR shall make two or more passes as necessary to remove the street debris.

Weather - In the event of heavy rain or other severe weather conditions, the scheduled sweeping service may be suspended. The decision to sweep will be made by the CITY after consultation with the CONTRACTOR. CONTRACTOR shall contact the CITY’s Project Manager to determine if sweeping has been suspended.

Water – CONTRACTOR shall furnish all water necessary for street sweeping. Water may be obtained from any CITY reclaimed water fire hydrant. CONTRACTOR shall obtain a fire hydrant meter permit (renewable every three months). A deposit fee is required for the fire hydrant meter. Contact the CITY’s Utilities Department Business Office, Customer Service Department, at (650) 329-2161 for instructions. CONTRACTOR shall be responsible for paying all of the water bills used for street sweeping operations for the entire term of this Agreement. CONTRACTOR shall not use residential or business water services for any purpose.

Dust Control - The proper volume and pressure of water will be supplied by the sweeper and shall be in good working condition at all times to adequately control dust during the sweeping operation, and shall meet all regulatory requirements for dust control.

Traffic Counters - CONTRACTOR is cautioned that at various times and locations, CITY may install temporary portable traffic counters which utilize a hose placed in the roadway. When an area with a counter is swept, care should be taken to avoid the counter hose. Any damage made by CONTRACTOR’s vehicles to traffic counters shall be immediately reported to the CITY’s Project Manager.

Speed - CONTRACTOR shall operate the sweepers between four and six miles per hour when sweeping, unless it can be proven, to the satisfaction of CITY, the sweeper can operate at a higher speed and still operate efficiently.

Call Backs - Whenever, in the opinion of the CITY, a section of street is inadequately swept, CONTRACTOR shall, within 24 hours after notification, re-sweep the section in question and may, at the discretion of the Public Works Director, or his designee, forfeit as a penalty Fifty Dollars ($50.00) for each time a street is inadequately swept. No additional payment will be made for call-back sweeping.

In addition to inspection work performed by CITY, the CONTRACTOR shall provide evidence of the work performed, when required by CITY. Proof may include, but not limited to, date/time stamped GPS routes, daily logs, etc. CONTRACTOR shall provide CITY login information to log into the CONTRACTOR’s GPS equipment tracking system as proposed in the proposal.
EQUIPMENT

Equipment - The equipment used to complete the sweeping required by this Agreement is subject to the approval of the CITY, and CONTRACTOR must be in possession of equipment capable of being able to remove a variety of material that can be found on streets (e.g. leaves, glass, gravel, dirt, mud, etc.).

Placarding – All sweepers operating in Palo Alto shall have magnetic placards attached to both the driver and passenger doors of the sweeper identifying the vehicle as being a CONTRACTOR for the CITY of Palo Alto. CITY will provide one (1) set of placard for each sweeper designated as being a primary sweeper. Two spare sets of placards will be provided to CONTRACTOR for use on spare sweepers in the event of a breakdown. These signs will be furnished by the CITY, and shall be returned upon request. A penalty of Fifty Dollars ($50.00) shall be imposed for each lost or misplaced placard.

Proof of Ownership - CONTRACTOR must have proof of ownership or a signed lease for the term of this Agreement for each sweeping machine used in the performance of this Agreement.

Registration - Sweeping machines must be properly registered and insured in accordance with California State Motor Vehicle Laws.

Safety Regulations - Sweeping machines must conform to all federal, state and local safety regulations and be properly licensed through the State of California.

Condition of Equipment - All sweeping machines must not be over five (5) years old for the duration of the contract.

Machines must be in good working condition capable of removing dirt, rocks, glass, mud, cans, sticks, leaves, litter and other debris for the duration of the contract. The outside body must be free from dents and large scratches, and paint must be well maintained.

Machines must be equipped with dual gutter brooms not shorter than six (6) inches, which shall be operating during all sweeping operations, and a main broom not shorter than seven (7) inches capable of sweeping at minimum an eight (8)-foot path, or vacuum sweep if approved by the Public Works Director, or his designee.

Machines must be equipped with a hopper of minimum six yards or larger in capacity. Machines must be equipped with all necessary advance warning safety devices needed to protect the public. This may include, but not limited to, light directional arrow boards, rotating beacons, strobe lights, reflective tape and backup alarms.
Machines shall at a minimum meet City of Palo Alto noise ordinance of less than 90dBA from twenty-five (25) feet of machine as specified in the Palo Alto Municipal Code Section 9.10 Noise Ordinance. However, the CITY still frequently receive noise complaints for nighttime sweeping within business districts, the CONTRACTOR shall provide a procedure or method to alleviate these noise concerns, if possible, while still able to perform the work efficiently. Machines shall be tested and approved prior to start of work and at anytime thereafter by the Project Manager for compliance. CONTRACTOR shall promptly replace any equipment found to be noncompliant.

In addition to noise complaints, sustainability and minimizing carbon footprint is very important to the City of Palo Alto, CONTRACTOR shall provide a feasible method, procedure, and/or equipment that may contribute to this important goal if they become available. Equipment such as modernized computer routing system, electric sweepers, hybrid sweepers, or other technologies that may exist.

The use of a steel plate on the sweeper wheel to prevent tire scuffing against the curb will not be permitted.

Maintenance of Equipment - All required maintenance, parts and fuel are part of this Agreement and furnished by CONTRACTOR, and all major mechanical problems must be corrected at CONTRACTOR's yard. A sufficient supply of spare brooms and other parts must be kept on hand to ensure the timely and continuous fulfillment of this Agreement. All CONTRACTOR vehicles shall be outfitted with spill kits, in order to minimize any damage caused by potential spills. At a minimum, these kits will include absorbent material, and towels for cleaning up spills on City streets.

Breakdown of Equipment - At all times CONTRACTOR shall properly maintain a fleet of sweeping machines, both as to condition and appearance, for the use on the work performed under this Agreement. CONTRACTOR shall have multiple spare sweepers on hand in the event of a breakdown by the primary sweeper. In case of breakdown by the main sweeper, backup service is required to complete the daily schedule. If any route has not been completed due to a breakdown of equipment by the end of the next business day, CONTRACTOR shall forfeit as a penalty Five Hundred Dollars ($500).

Storage of Equipment - CONTRACTOR shall provide his own storage for equipment such as sweeping machines, brooms, tires, gas, oil and other required parts and materials. CITY will not provide storage for any CONTRACTOR equipment.

COMMUNICATIONS AND REPORTS

Office - CONTRACTOR shall maintain an office or such other facility through which he/she can be contacted and from which he/she can maintain radio or pager contact with sweeping vehicles. It shall be equipped with sufficient telephones and shall have a responsible person in charge from 7:30 a.m. to 4:00 p.m., Monday through Friday.
CONTRACTOR shall also provide a 24-hour emergency contact telephone number.

**Complaints** - Complaints regarding the street sweeping operations, which the CITY considers justifiable and the responsibility of CONTRACTOR, will be referred to CONTRACTOR for immediate attention. Within two (2) days, CONTRACTOR shall submit to the Public Works Director, or his designee, a report of the action taken to address or reconcile each complaint.

**Reports** - CONTRACTOR shall submit a monthly report to the CITY calculating the volume (cubic yards) collected each month from the residential and commercial routes, the types of sweepers used to complete daily routes (i.e. regenerative air or mechanical broom), a report by day of tonnages deposited at the SMaRT Station, and a report stating the number of curb miles completed each month. Reports to the CITY shall be submitted within 10 days from the beginning of each month for the previous month collected. Forms for reporting will be provided by the City of Palo Alto.

**TASK 2 – DEBRIS MANAGEMENT**

**Removal of Debris** – CONTRACTOR shall remove all street sweeping debris from City streets by 5:00 P.M. each day that sweeping occurs in the City. This could be accomplished through the use of roll-off dumpsters, dumping in the field, or any other method deemed acceptable by the CITY. CONTRACTOR shall haul debris directly to the SMaRT Station during the non-leaf season. During this time, dumping will not be permitted on the street without prior approval of the CITY’s Project Manager. These requests will be evaluated on a case-by-case basis. During the leaf season, CONTRACTOR may dump debris from the sweeping operation directly onto the street, and then transfer the debris to a roll-off container. The roll-off shall then be hauled to the SMaRT Station. During the leaf season, up to twelve (12) locations may be provided to CONTRACTOR by the CITY. The locations provided by the CITY are the only acceptable locations to deposit debris. Should CONTRACTOR deposit debris at a location not provided by the CITY, a penalty of Five Hundred Dollars ($500.00) shall be assessed. CITY will also assess a Five Hundred Dollar ($500.00) penalty for each location in which debris is left on CITY streets overnight.

CONTRACTOR shall also provide a sweeping machine to clean up any dump location used within one hour of the debris being removed from the CITY. Should the dump location not be cleaned by the end of the day, liquidated damages of One Hundred Dollars ($100.00) shall be assessed.

**Disposal of Debris** – CONTRACTOR shall be responsible for hauling all debris collected to the SMaRT Station, 301 Carl Rd., Sunnyvale, CA. This includes all debris removed from the streets by CONTRACTOR and by CITY Sweepers (during the entire...
term of the contract). CONTRACTOR shall assume all responsibility for transporting material to the SMaRT Station, and all disposal fees will be assumed by the CITY.

Additional Debris Removal – On a periodic basis, CONTRACTOR shall remove debris from the Palo Alto MSC, 3201 E. Bayshore Rd., which is associated with in-house operations. There may be other locations where debris removal will occur, and CONTRACTOR shall be provided these locations when the need exists for debris removal. The method for this removal shall be through the use of dump trucks or, roll-off containers, and shall be completed within three (3) business days of notification by the CITY. Services provided under this section shall be billed per ton, with all costs for dumping at the SMaRT Station assumed by the CITY.

TASK 3 – NON-Routine Sweeping Services

There are various streets throughout the CITY where installed traffic control devices may impede or block access to standard street sweepers, and may require handwork or special equipment for proper cleaning. Listed below are examples of locations where such traffic control devices can be found, and are not inclusive of all possible locations. CONTRACTOR shall provide a feasible plan altogether with the proper equipment to address all locations throughout the CITY. CONTRACTOR has defined in the proposal that approximately three hours are required to clean each location listed below, the actual hours required for the work and to be paid by the CITY for each location will require field verification by the CITY’s Project Manager, all future added locations will be paid on the basis of Time and Materials based on bid price for Task 3.

Along Middlefield Rd, mainly near intersections between Embarcadero Rd and Oregon Expwy, there are small sections of bike lanes that are protected and separated from vehicular traffic by white plastic bollards. Some of these protected bike lane sections are too narrow for access by a street sweeper, and may require handwork such as a leaf blower for proper cleaning. CONTRACTOR shall provide the labor and appropriate equipment to properly clean these locations.

Along Middlefield Rd, near the intersections of Everett Ave and Hawthorne Ave, there are left turn lanes protected by plastics traffic control devices, these devices collect lots of debris and may need handwork to properly clean. CONTRACTOR shall provide the labor and appropriate equipment to properly clean these locations.

Along Charleston/Arastradero Rd are sections of protected bike lanes that are separated from vehicular traffic by concrete islands. These areas may be too narrow for street sweeper to access, the CONTRACTOR shall provide the labor and appropriate equipment to properly clean these locations.

Along Ross Road, mainly between Oregon Expressway and East Meadow Dr, there are traffic circles, concrete islands and bulb-out curbs. CONTRACTOR shall provide the labor and appropriate equipment to properly clean these locations.
CONTRACTOR shall avoid sweeping or cleaning areas near schools while children are present.

**TASK 4 – ADDITIONAL SERVICES – AS NEEDED T&M (Time & Materials)**

**Unscheduled Service** - CONTRACTOR shall provide, if required by the CITY, unscheduled sweeping of any street or streets or portions of streets. CITY will provide CONTRACTOR a minimum twenty-four (24) hour notice for unscheduled sweeping. CONTRACTOR shall provide up to an additional 500 hours per year of contingency sweeping to deal with problematic areas throughout the CITY. CONTRACTOR shall satisfactorily complete any contingency sweeping within two (2) business days after notification from CITY. These sweeping services shall be billed at an hourly rate. These services will be used only when necessary, so it is possible that all, few or none of the additional hours will be used during a year. CITY will only pay for actual hours swept, and will not pay for any unused contingency hours.

**Emergency Service** - CONTRACTOR shall also respond to emergency calls for service 24 hours a day, seven days a week, during the term of this Agreement, and provide requested service within two (2) hours of being notified. Emergency calls for service generally include either sweeping and/or hauling, which may include, but not limited to, traffic accident cleanup of debris on the roadways, storm or other disasters debris clean up (natural or manmade), and/or mud/debris on the roadway as a result of water main breaks. For emergency service, CONTRACTOR shall bill CITY on an hourly basis, with an emergency mobilization charge added per occurrence.
EXHIBIT B
SCHEDULE OF PERFORMANCE

CONTRACTOR shall perform the Services according to the following schedule:

<table>
<thead>
<tr>
<th>Service</th>
<th>Schedule</th>
</tr>
</thead>
</table>
| Sweeping Residential/Light Commercial Areas | • Weekly During Leaf Season  
 |                                         | • Every Other Week During Non-Leaf Season                                |
| Sweeping El Camino Real                | Weekly Year-Round                                                        |
| Sweeping Downtown University Avenue and California Avenue | Three (3) Times a Week Year-Round (weeks with a  
 |                              | Holiday that falls on a regularly scheduled sweeping day shall be adjusted to twice a week) |
| Debris Removal                         | Year-Round                                                               |
| Non-routine Street Sweeping            | As Needed (not to exceed 500 hours annually)                             |
| Unscheduled Service – T&M              | As Needed (not to exceed 500 hours annually)                             |
| Emergency Service – T&M                | As Needed (not to exceed 100 hours annually)                             |
EXHIBIT C
SCHEDULE OF FEES

☐ ALTERNATIVE 3. Compensation based upon fee schedule

CITY shall pay CONTRACTOR according to the following rate schedule. The maximum amount of compensation to be paid to CONTRACTOR, including both payment for services and reimbursable expenses, shall not exceed the amounts set forth in Sections 5 and 6 of the Agreement. Any services provided or hours worked for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to CITY.

DETAILED RATE SCHEDULE

<table>
<thead>
<tr>
<th>Scope</th>
<th>Labor Categories</th>
<th>Estimated Quantity</th>
<th>Unit Rate</th>
<th>Extended (Annual)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1</td>
<td>Routine Street Sweeping</td>
<td>18,320 Curb Miles</td>
<td>$42.32</td>
<td>$775,302.40</td>
</tr>
<tr>
<td>Task 2</td>
<td>Debris Removal/Hauling</td>
<td>2,500 Tons</td>
<td>$30.00</td>
<td>$75,000.00</td>
</tr>
<tr>
<td>Task 3</td>
<td>Non-routine Street Sweeping</td>
<td>500 Hrs. Annually</td>
<td>$50.00</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>Task 4</td>
<td>Unscheduled Service – T&amp;M</td>
<td>500 Hrs. Annually</td>
<td>$110.00</td>
<td>$55,000.00</td>
</tr>
<tr>
<td></td>
<td>Emergency Service – T&amp;M</td>
<td>100 Hrs. Annually</td>
<td>$110.00</td>
<td>$11,000.00</td>
</tr>
<tr>
<td></td>
<td>Emergency Mobilization</td>
<td>Per Occurrence</td>
<td>$150.00</td>
<td></td>
</tr>
<tr>
<td>TOTAL NOT TO EXCEED (TASKS 1 – 4) (ANNUAL)</td>
<td></td>
<td></td>
<td></td>
<td>$941,302.40</td>
</tr>
</tbody>
</table>

COMPENSATION BY CONTRACT YEAR*

<table>
<thead>
<tr>
<th></th>
<th>Services (Tasks 1-4)</th>
<th>Additional Services (Per Section 5)</th>
<th>Subtotals / Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Year 1</td>
<td>$941,302</td>
<td>$94,130</td>
<td>$1,035,432</td>
</tr>
<tr>
<td>Contract Year 2</td>
<td>$978,954</td>
<td>$94,130</td>
<td>$1,073,084</td>
</tr>
<tr>
<td>Contract Year 3</td>
<td>$1,018,112</td>
<td>$101,811</td>
<td>$1,119,923</td>
</tr>
<tr>
<td>Contract Year 4</td>
<td>$1,058,836</td>
<td>$105,884</td>
<td>$1,164,720</td>
</tr>
<tr>
<td>Contract Year 5</td>
<td>$1,101,189</td>
<td>$110,119</td>
<td>$1,211,308</td>
</tr>
<tr>
<td>Subtotals / Totals</td>
<td>$5,098,393</td>
<td>$509,839</td>
<td>$5,608,232</td>
</tr>
</tbody>
</table>

* The parties understand and agree that the compensation by contract year amounts in
the table above assume consistent annual CPI increases of 4%, and are provided for illustration purposes only. As set forth in Section 6 (Compensation for Successive Contract Years During the Term) of the Agreement, actual compensation rates for contract years 2-5 will be determined in relation to the applicable CPI, and will be documented by written amendment to this Agreement as provided for herein.

**HOURLY RATE SCHEDULE**

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Base</th>
<th>Reg Time</th>
<th>Over Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>James (Darcel)</td>
<td>Driver</td>
<td>$24.00</td>
<td>$32.65</td>
<td>$47.30</td>
</tr>
<tr>
<td>Pela</td>
<td>Driver</td>
<td>$22.00</td>
<td>$28.31</td>
<td>$40.03</td>
</tr>
<tr>
<td>Julio</td>
<td>Driver</td>
<td>$22.50</td>
<td>$30.78</td>
<td>$41.27</td>
</tr>
<tr>
<td>Daryl</td>
<td>Driver</td>
<td>$32.70</td>
<td>$43.02</td>
<td>$59.98</td>
</tr>
<tr>
<td>Blower - Training</td>
<td>Laborer</td>
<td>$20.00</td>
<td>$25.18</td>
<td>$36.69</td>
</tr>
</tbody>
</table>
EXHIBIT D

INSURANCE REQUIREMENTS

Contractors to the City of Palo Alto (City), at their sole expense, shall for the term of the contract obtain and maintain insurance in the amounts for the coverage specified below, afforded by companies with Am Best’s Key Rating of A-:VII, or higher, licensed or authorized to transact insurance business in the State of California.

Award is contingent on compliance with City’s insurance requirements, as specified, below:

<table>
<thead>
<tr>
<th>Required</th>
<th>Type of Coverage</th>
<th>Requirement</th>
<th>Minimum Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Worker’s Compensation Employer’s Liability</td>
<td>Statutory</td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>General liability, including personal injury, broad form property damage blanket</td>
<td>Bodily Injury</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td>Contractual, and fire legal liability</td>
<td>Property Damage</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bodily Injury &amp; Property Damage Combined</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Yes</td>
<td>Automobile liability, including all owned, hired, non-owned</td>
<td>Bodily Injury</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Each Person</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Each Occurrence</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Property Damage</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bodily Injury and Property Damage Combined</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>No</td>
<td>Professional liability, including, errors and omissions, malpractice (when applicable), and negligent performance</td>
<td>All Damages</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Yes</td>
<td>The City of Palo Alto is to be named as an additional insured: Contractor, at its sole cost and expense, shall obtain and maintain, in full force and effect throughout the entire term of any resultant agreement, the insurance coverage herein described, insuring not only Contractor and its subconsultants, if any, but also, with the exception of Workers’ Compensation, Employer’s Liability and Professional Insurance, naming as additional insureds City, its council members, officers, agents, and employees.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I. Insurance coverage must include:

A. A contractual liability endorsement providing insurance coverage for contractor’s agreement to indemnify City

II. Contractor must submit certificates(s) of insurance evidencing required coverage at the following URL:

   https://www.planetbids.com/portal/portal.cfm?CompanyID=25569

III. Endorsement provisions, with respect to the insurance afforded to “additional insureds”
A. PRIMARY COVERAGE

WITH RESPECT TO CLAIMS ARISING OUT OF THE OPERATIONS OF THE NAMED INSURED, INSURANCE AS AFFORDED BY THIS POLICY IS PRIMARY AND IS NOT ADDITIONAL TO OR CONTRIBUTING WITH ANY OTHER INSURANCE CARRIED BY OR FOR THE BENEFIT OF THE ADDITIONAL INSUREDS.

B. CROSS LIABILITY

THE NAMING OF MORE THAN ONE PERSON, FIRM, OR CORPORATION AS INSUREDS UNDER THE POLICY SHALL NOT, FOR THAT REASON ALONE, EXTINGUISH ANY RIGHTS OF THE INSURED AGAINST ANOTHER, BUT THIS ENDORSEMENT, AND THE NAMING OF MULTIPLE INSUREDS, SHALL NOT INCREASE THE TOTAL LIABILITY OF THE COMPANY UNDER THIS POLICY.

C. NOTICE OF CANCELLATION

1. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR ANY REASON OTHER THAN THE NON-PAYMENT OF PREMIUM, THE ISSUING COMPANY SHALL PROVIDE CITY AT LEAST A THIRTY (30) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

2. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR THE NON-PAYMENT OF PREMIUM, THE ISSUING COMPANY SHALL PROVIDE CITY AT LEAST A TEN (10) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

Vendors are required to file their evidence of insurance and any other related notices with the City of Palo Alto at the following URL:

https://www.planetbids.com/portal/portal.cfm?CompanyID=25569

OR

http://www.cityofpaloalto.org/gov/depts/asd/planet_bids_how_to.asp
STREET SWEEPING SCHEDULE

<table>
<thead>
<tr>
<th>Mon/Wed/Fri</th>
<th>Monday</th>
<th>Tuesday</th>
<th>Wednesday</th>
<th>Thursday</th>
<th>Friday</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

A = A Weeks
B = B Weeks
C = One side of street each per existing program
D = Weekly on M/W/F

SCALE: 1" = 650'

East end of Embarcadero Rd & adjoining streets
**ATTACHMENT B**

**SCHEDULE OF FEES**

**DETAILED RATE SCHEDULE – 2014 Contract (Fifth year of 5-year contract)**

<table>
<thead>
<tr>
<th>Scope</th>
<th>Labor Category</th>
<th>Estimated Quantity</th>
<th>Unit Rate</th>
<th>Extended</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1</td>
<td>Routine Street Sweeping</td>
<td>17,272 Curb Miles</td>
<td>$32.06</td>
<td>$553,740.32</td>
</tr>
<tr>
<td>Task 2</td>
<td>Debris Removal/Hauling</td>
<td>2,500 Tons</td>
<td>$31.66</td>
<td>$79,150</td>
</tr>
<tr>
<td>Task 3</td>
<td>Unscheduled Service – T&amp;M</td>
<td>500 Hrs. Annually</td>
<td>$73.52</td>
<td>$36,760</td>
</tr>
<tr>
<td></td>
<td>Emergency Service – T&amp;M</td>
<td>100 Hrs. Annually</td>
<td>$73.52</td>
<td>$7,352</td>
</tr>
<tr>
<td></td>
<td>Emergency Mobilization</td>
<td>Per Occurrence</td>
<td>$107.43</td>
<td></td>
</tr>
<tr>
<td><strong>Total Not To Exceed (Tasks 1-3)</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$677,002.32</strong></td>
</tr>
</tbody>
</table>

**DETAILED RATE SCHEDULE – 2020 Contract (First year)**

<table>
<thead>
<tr>
<th>Scope</th>
<th>Labor Category</th>
<th>Estimated Quantity</th>
<th>Unit Rate</th>
<th>Extended</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1</td>
<td>Routine Street Sweeping</td>
<td>18,320 Curb Miles</td>
<td>$42.32</td>
<td>$775,302.40</td>
</tr>
<tr>
<td>Task 2</td>
<td>Debris Removal/Hauling</td>
<td>2,500 Tons</td>
<td>$30.00</td>
<td>$75,000.00</td>
</tr>
<tr>
<td>Task 3</td>
<td>Non-routine Street Sweeping</td>
<td>500 Hrs. Annually</td>
<td>$50.00</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>Task 4</td>
<td>Unscheduled Service – T&amp;M</td>
<td>500 Hrs. Annually</td>
<td>$110.00</td>
<td>$55,000.00</td>
</tr>
<tr>
<td></td>
<td>Emergency Service – T&amp;M</td>
<td>100 Hrs. Annually</td>
<td>$110.00</td>
<td>$11,000.00</td>
</tr>
<tr>
<td></td>
<td>Emergency Mobilization</td>
<td>Per Occurrence</td>
<td>$150.00</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL NOT TO EXCEED (TASKS 1 – 4)</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$941,302.40</strong></td>
</tr>
</tbody>
</table>
Summary Title: 840 Kipling: Variance Approval

Title: 840 Kipling Street [18PLN-00185]: Variance Associated With an Individual Review Application for Modifications to an Existing Historic 1,192 SF, One-Story Single-Family Home Allowing: (1) a Second-Story Home Addition on a Substandard, Irregular R-2 Zoned Lot, and (2) Extension of a Non-Complying Wall That Encroaches 2.5 Feet Into an Interior Side Setback; On February 26, 2020, the Planning and Transportation Commission Unanimously Recommended Approval of the Variance. This Project is Exempt from the California Environmental Quality Act (CEQA) in Accordance with CEQA Guidelines Section 15301(e).

From: City Manager

Lead Department: Planning and Development Services

Recommendation:
The Planning and Transportation Commission (PTC) recommends Council approve the Record of Land Use Action (Attachment A) approving the requested variance application at 840 Kipling for:

- A second-story addition with a height of 26 feet 8-¼ inches to a historic home on a substandard lot, where development is otherwise limited to one habitable floor with a maximum height of 17 feet, and
- A six-foot horizontal extension of a noncomplying wall encroaching 2 feet 6 inches into the required six-foot side setback, providing additional area at the first floor and basement levels.

Executive Summary:
This report recommends the City Council approve on consent calendar the variance application requests for a two-story single-family home on a substandard, R-2 zoned lot. The project site is located within the boundaries of the South of Forest Area I Coordinated Area Plan (SOFA I). The director of planning and development services (Director) tentatively approved applications for a
variance and the individual review (IR). A representative of the neighboring 441 Channing Avenue property requested a hearing on the variance.

The PTC is the reviewing body for variances when a public hearing has been requested following the Director’s tentative decision. On February 26, 2020, the PTC held a public hearing and unanimously recommended City Council approve the requested variances. If three Council members vote to remove the project from the consent calendar, the Council would have the opportunity to hear the variance application de novo at a future, noticed hearing.

Background:
The property is developed with a 1,192 square floor (sf) single-story single-family residence and a detached garage containing 336 sf of floor area. The main residence is a one-story bungalow with an attic, constructed in 1912. The residence is located on a substandard R-2 zoned lot. The home is a noncomplying facility, due to the 2’-6” encroachment into the right-side yard setback.

The applicant requested approvals for an IR and variance applications to allow:
- a 184 sf ground floor addition at the rear part of the main residence,
- a 397 sf partial basement beneath the rear addition, and
- a 489 sf second floor addition.

Along with the proposed additions, the applicant proposes modifications to existing windows and doors for all exterior walls of the building.

In 1998, the Historic Resources Board (HRB) determined the existing residence was eligible as a ‘contributing residence’. The HRB reviewed the project on February 14, 2019¹ and December 12, 2019². The HRB found the project, as conditioned, is consistent with all ten Secretary of Interior’s Standards for Rehabilitation (SOI standards).

City staff determined the project conforms with all applicable zoning and municipal code requirements, including the Single-Family Individual Review Guidelines and Variance regulations set forth in the Palo Alto Municipal Code (PAMC) Chapter 18.76.030. The Director tentatively approved the project applications on January 15, 2020 (Attachment B). The Director’s determination was based upon a review of all information contained in the project file, which included neighbor letters received during the review process.

On January 23, 2020, a representative of the neighboring property at 441 Channing Avenue submitted a hearing request on the variance application. The requestor initially asked for a

¹ February 14, 2019 HRB staff report can be found at this link: https://www.cityofpaloalto.org/civicax/filebank/documents/68958
² December 12, 2019 HRB staff report can be found at this link: https://www.cityofpaloalto.org/civicax/filebank/documents/74373
hearing of the IR application, but later withdrew that request. The Director’s approval of the IR application is effective, subject to City Council’s approval of the requested variance.

Discussion:
On February 26, 2020, the PTC conducted a public hearing, received public testimony and provided its recommendation to City Council in support of the Variance application, with minor modifications to staff’s recommended variance findings (Attachment D). In addition to hearing from the 441 Channing hearing requestor, PTC received one written letter from a neighbor and heard from three other speakers who were in support of the project.

The hearing requestor’s issues appeared in a letter to PTC, dated February 3, 2020 (Attachment C). In summary, the hearing requestor expressed concerns that:
- The project would not meet findings for the granting of two variance requests.
- The project, with the proposed density and setbacks, would conflict with the R-2 zoning designation.
- The design option of a one-and-one-half story addition was not considered.
- A rear addition is possible if the tree protection zone (TPZ) is reduced, in the same way TPZ reductions occurred for nearby recent developments.

The PTC reviewed the information on file, received public testimony, and unanimously recommended City Council approve the two variance requests. The PTC concluded that the project would meet all four Variance approval findings and recommended including these additional findings:
- The request to exceed the 17-foot height limit is a privilege supported by development on other properties in the immediate neighborhood.
- The requested encroachment into the right-side yard would replace an existing encroachment.

These PTC-recommended modifications to the findings appear in Variance Finding 2 in the draft Record of Land Use Action (Attachment A).

Design Alternatives
During the hearing, PTC commissioners considered other potential design alternatives given the site constraints. Commissioner Hechtman noted his support for the appropriate placement of a portion of the permitted floor area at the second story. He compared the current project with a potential alternative that would place all permitted floor area at grade—an option that would need a lot coverage variance. He also concurred that the project would enable the preservation of protected trees and historic resource, which are in alignment with existing policies in the SOFA I and Comprehensive Plan. Though his comments were not included in the formal motion
for recommendation, PTC commissioners suggested inclusion of these comments in Council staff report.

The PTC also acknowledged that:
- Additions and alterations to the front façade are generally discouraged as they would alter the character of a building having historic merit.
- Along with the R-2 zone regulations, the oddly shaped lot and the location of existing structures limit the configuration of floor area on the ground floor.
- The recommended 35-foot TPZ constitutes the remaining undisturbed open area that is crucial to preserve the two protected trees, but will limit buildable area at the rear side.
- Aside from the variance requests, the first- and second-floor additions substantially comply with the R-2 zoning regulations and other applicable requirements.
- The first-floor addition would replace an existing and similar side-setback encroachment, extend to the edge of the TPZ, and enable detached garage access.
- The second-floor addition, with an appropriate height within the daylight planes and permitted building envelope, will respect the privacy and scale of neighboring properties.
- Granting a variance to allow a second story addition for this property is appropriate relative to other design options that will further intrude into the tree protection zone.

The excerpt minutes of the PTC hearing on February 26, 2020 are attached (Attachment D).

**City Council Purview:**
The Council’s purview is limited to the variance request allowing:

1. A second-story addition with a height of 26 feet 8 ¼ inches on a substandard lot, on which development is limited to one habitable floor with a maximum height of 17 feet, and
2. An approximately 6'-4” horizontal extension to the existing noncomplying first floor and basement walls on the west elevation that encroaches 2'-6” into the required six-foot, right-side yard setback.

City Council is requested to approve the variance on consent calendar, consistent with existing municipal code procedures. Three councilmembers would be needed to pull the item off the consent agenda to schedule a public hearing.

**Policy Implications:**
The process for evaluating a variance is set forth in PAMC Chapter 18.76.030. A variance is intended to provide a way for a site with special physical constraints to be used in ways similar to other sites in the same vicinity and zoning district. Variances provide a way to grant relief from strict application of the zoning regulations. Strict application of codes can subject
development of a site to substantial hardships, constraints, or practical difficulties that do not normally arise on other sites in the same vicinity and zoning district. Variance applications are evaluated to specific findings. All findings must be made in the affirmative to approve the project. City Council may approve the variance requests, as recommended by staff and PTC, in accordance to the objectives and findings for variance as outlined in the Municipal Code.

**Timeline:**
If three Council members vote to remove the project from the consent calendar, the Council would have the opportunity to hold a future public hearing on the variance application. If approved on consent, the decision is effective immediately.

**Environmental Review:**
Staff assessed the potential impacts of the subject project in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The project is exempt from the provisions of the California Environmental Quality Act per CEQA Guidelines Section 15301(e) (Additions to Existing Structure).

**Attachments:**
- Attachment6.a: Attachment A - Record of Land Use Action (DOCX)
- Attachment6.b: Attachment B - Proposed Director’s Approval Letter and Findings dated January 15, 2020 (PDF)
- Attachment6.c: Attachment C - Hearing Requestor Letter dated February 3, 2020 (PDF)
- Attachment6.e: Attachment E - Project Plans (DOCX)
On April 20, 2020, the City Council held a duly noticed public hearing, and after considering all of the evidence presented, upheld the Planning and Development Services (PDS) Director’s January 15, 2020 decisions to approve Variance to allow (1) a second-story addition to a historic home on a substandard, irregular lot; and (2) an horizontal extension of a noncomplying wall that encroaches 2’-6” into a 6-foot side setback (File No. 18PLN-00185).

SECTION 1. Background. The City Council of the City of Palo Alto (“City Council”) make the following findings, determination and declarations:

A. On June 6, 2018, the applicant filed Variance, Individual Review and Historic Review Applications for exterior modifications and additions to a historic residence on a substandard, irregular Lot in the R-2 zone district within the boundaries of South of Forest Area I Coordinated Area Plan (SOFA I).

B. The project was reviewed by Staff in conformance to applicable zoning and municipal code requirements, including the Single-Family Individual Review Guidelines and the Variance regulations set forth in the Palo Alto Municipal Code Chapter 18.76.030.

C. On January 15, 2020, the PDS Director tentatively approved the applications, following review by the Historic Resource Board on February 14, 2019 and December 12, 2019. Notices of the Director’s decision were mailed to adjacent neighbors.

D. Timely hearing requests on both Variance and Individual Review applications were made by a representative of the neighboring property at 441 Channing Avenue.

E. The Planning and Transportation Commission (PTC) is the reviewing body for Variance applications for which a hearing has been requested after the Director has issued a tentative decision. On February 26, 2020, the PTC held a duly noticed public hearing, at which evidence was presented and all person were afforded an opportunity to be heard in accordance with the Palo Alto Municipal Code and the Council’s Policies and Procedures.

F. A Director’s Hearing is the reviewing body for Individual Review applications for which a hearing has been requested after the Director has issued a tentative decision. A Director’s Hearing was initially scheduled on March 5, 2020. However, the hearing
requestor withdrew the hearing request following the PTC hearing on February 26, 2020.

G. On April 20, 2020, the City Council held a duly noticed public hearing to act on the Variance application, at which evidence was presented and all persons were afforded an opportunity to be heard in accordance with the Palo Alto Municipal Code and the Council’s Policies and Procedures. The decision on the Variance, Individual Review and Historic Review applications will become final upon City Council’s approval on the Variance application.

SECTION 2. Environmental Review.
The project is exempt from the provisions of the California Environmental Quality Act per CEQA Guidelines Section 15301(e) (Additions to Existing Structure).


1. Because of special circumstances applicable to the subject property, including (but not limited to) size, shape, topography, location, or surroundings, the strict application of the requirements and regulations prescribed in this title substantially deprives such property of privileges enjoyed by other property in the vicinity and in the same zoning district as the subject property. Special circumstances that are expressly excluded from consideration are:
   (A) The personal circumstances of the property owner, and
   (B) Any changes in the size or shape of the subject property made by the property owner or his predecessors in interest while the property was subject to the same zoning designation.

The subject site was developed in 1912 with a detached garage and a single-story residence that is non-complying with regards to the right-side yard setback. The subject site has a lot area of 4,893 square feet (SF) and a lot width of 39.5 feet. The site is considered as substandard because it does not meet the minimum lot width of 50 feet and the lot area is less than 4,980 SF (83% of the minimum 6,000 SF) than what are allowed in the R-2 zoning district.

Most of the substandard lots found on this block have a lot width of 25’ and the lot areas are ranging from approximately 1,970 SF to 2,840 SF, where the remaining properties on this block have a consistent lot width of 50’ and consistent lot area of 5,625 SF. The subject property with a lot width of 39.5’ and lot area of 4,983 SF is unique to the general lot pattern found in the neighborhood, which offers reasonable space for a second story addition to meet the daylight plane requirement unlike other substandard lots in the area.

The subject property includes a residence with historic merit. In order to be consistent with the Secretary of Interior’s Standards for Rehabilitation (SOI standards), additions and alterations to the front façade are generally discouraged as they would alter the historic
character of the building. Therefore, this historic home is limited to expansion on the rear part of the building.

The subject property is the only lot on the block that has a non-rectangular shape. The oddly shaped lot includes setbacks that limit the configuration of buildable area. Furthermore, two protected redwood trees in diameters of 42” and 26” are identified in the rear side of the subject property. These trees share a tree protection zone (TPZ) of 35’ in radius. After considering prior impacts and existing intrusions to the root system within the TPZ area, the 27% of undisturbed area is crucial to maintain for the preservation of these trees. The TPZ of 35’ in radius in the rear yard limits the property owner’s ability to construction by approximately 530 SF of the 2268 SF buildable area on the subject property.

The purpose of the granting of a variance, as outlined in PAMC Section 18.76.030(a) is to provide a way to grant relief when strict application of the zoning regulation would subject development of a site to substantial hardships, constraints, or practical difficulties that do not normally arise on other sites in the vicinity and same zoning district.

As noted above, the subject property may share similar zoning and historic characteristics as other properties within the immediately vicinity. While the unique size present opportunities for expansion, the shape and natural surrounding impose constraints to the configuration and the size of the buildable area. These site characteristics differentiate this property from other substandard and regular lots within the same zoning district.

2. The granting of the application shall not affect substantial compliance with the regulations or constitutes a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and in the same zoning district as the subject property, and

The R-2 zoning regulation prohibits second floor additions on substandard lots and encourages expansion on the ground floor. As noted above, the subject property presents various limitations for expansion on the ground floor.

With the loss of approximately 530 SF development potential within the buildable area on the ground floor, the project will expand about 184 SF on the first floor outside of the TPZ to preserve the protected trees and requests a 489 SF addition (roughly 22% of total floor area) to be placed on the second floor. The additions would be built within the limitations set forth for floor area and lot coverage in the R-2 zoning district.

The granting of second story addition is in compliance with the regulations of daylight planes and setbacks. The project with a variance request to exceed the 17-foot height limit is a privilege that is supported by other properties in the immediate neighborhood. The proposed second floor addition is consistent with the height restriction for two-story development in the R-2 zoning district. It will not constitute a grant of privileges inconsistent with the limitation upon other properties in the vicinity and in the same zoning district as the subject property.
The granting of an approximate 6 foot extension of the existing legal non-complying wall, that is setback 3.5 feet from the west side property line, is minor in nature. The project with a variance request to encroach into the right side yard would replace an existing encroachment. This request would normally fit within the specific limits set forth for Home Improvement Exception. The design of this small addition will be consistent with the SOI standards. With the objective to locate available floor area for the site on the first floor, the granting of this extension will not constitute a grant of privileges inconsistent with the limitation upon other properties in the vicinity and in the same zoning district as the subject property.

3. *The granting of the application is consistent with the Palo Alto Comprehensive Plan and the purposes of this title (Zoning), and*

The project is generally consistent with the objectives and relevant policies in the Comprehensive Plan. The project will rehabilitate a residence with historic merit by preserving its historic integrity consistent with the SOI Standards (Policy L-2.9, L-6.4, L-7.1, L-7.8). The proposed site plan is sensitive to surrounding landscape and will minimize impact to two protected trees (Policy N-2.9, N-2.10). The project includes additions with appropriate scale and height that are compatible with the neighborhood and adjacent structures (Policy L-3.1, L-6.1). The proposed additions will preserve natural light exposure for nearby single-family residences by complying to current regulations for daylight planes and setbacks (Policy L-6.8). The project is consistent with the Comprehensive Plan as a whole.

The subject property is located within the South of Forest Area Phase I Coordinated Area Plan (SOFA I CAP) area. It is in a transitional area between R-2 and DHS (Detached Housing on Small Lots) zoning districts. The project, with increased living space, will support a range of housing options for various ages, household sizes, lifestyles and incomes in the neighborhood (Policy H-6). Through a request of granting exception to development standards, the project will reconfigure the house footprint and massing to preserve significant trees (Policy DC-7). The project is designed to be consistent with the SOI standards, which will reinforce its original architectural style and use (Policy DC-9). Overall, the project is compatible with the historical patterns of the surrounding single-family areas and is generally consistent with the SOFA I CAP objectives and policies.

The purpose of R-2 zoning district is ‘intended to allow a second dwelling unit under the same ownership as the initial dwelling unit on appropriate sites in areas designated for single-family use by the Palo Alto Comprehensive Plan, under regulations that preserve the essential character of single-family use.’ (PAMC 18.10.010(b)). The project will maintain its original use as single-family residential and the proposed additions will be consistent with the existing architecture to preserve the essential character of single-family use. Although two dwelling unit is encouraged on appropriate sites within the area, the project site will not meet the minimum site area of 7,500 square feet, that was established by the
Comprehensive Plan (Housing Element) and R-2 zoning regulations, to permit additional residential units. The project may, however, include a separate, self-contained accessory dwelling unit for rental. Such option is available but is not mandatory for developments in the R-2 zoning district. Given the site constraints, the project is generally consistent with the purpose of R-2 zoning regulations.

4. *The granting of the application will not be detrimental or injurious to property or improvements in the vicinity, will not be detrimental to the public health, safety, general welfare, or convenience.*

The granting of the variance application would not be detrimental or injurious to property or improvements in the vicinity. The subject property is not located in proximity to designated view corridors or scenic routes. Obstructed view from neighboring properties is not considered as detrimental or injurious in nature. Though, the granting of the variance application shall consider neighbor's concerns with respect to privacy, height and scale at the neighborhood scale.

The proposed additions are in substantial compliance with the five Individual Review Guidelines for single-family homes with the goals to promote new construction that is compatible with existing residential neighborhoods.

The proposed second story window size and placement with above 5’ sill height on both left and right elevations will mitigate privacy impact by minimizing the opportunity for direct sight lines into windows and patios of neighboring properties. The proposed second floor addition is rectangular in shape and is setback from the first floor wall planes so that massing is not highly expressed from all sides. In addition, the proposed second floor addition will be built within the required side and rear daylight planes at a height of about 26’-8”. The existing building height is 18’ and the height limit for two-story development in the R-2 zoning district is 30’. The overall height is still considerably lower than some nearby homes on this block.

The existing west side wall is setback 3’ 6” from the west interior property line, therefore this wall is non-conforming. The project will replace one window on this existing wall. This replacement will not exceed the thresholds contained within Code Section 18.70.100, therefore the wall may remain. Additionally, an approximate 6 foot extension to this existing 40.5 foot wall will be added to the rear part of the home and will not be visible from the street. The proposed extension will not decrease privacy and the scale is compatible with the existing home. The proposed extension will not be detrimental to public health and safety, general welfare or convenience.

As conditioned, the project is required to be in compliance with the Municipal Code and other relevant regulations. The proposed additions are not found to pose potential risk to public health, safety, general welfare or convenience. The granting of the variance
application would not be detrimental or injurious to property or improvements in the vicinity.

SECTION 4. CONDITIONS OF APPROVAL

PLANNING DIVISION CONDITIONS:

1. CONFORMANCE WITH PLANS. Construction and development shall conform to the approved plans entitled, “Reyna/Kutlu Residence, 840 Kipling Street, Palo Alto, CA 94301, APN 120-17-028,” stamped as received by the City on November 20, 2019 on file with the Planning Department, 250 Hamilton Avenue, Palo Alto, California except as modified by these conditions of approval.

2. BUILDING PERMIT. Apply for a building permit and meet any and all conditions of the Planning, Fire, Public Works, and Building Departments.

3. BUILDING PERMIT PLAN SET. A copy of this cover letter and conditions of approval shall be printed on the second page of the plans submitted for building permit. Project plans submitted for Building permits shall incorporate the following changes:
   a. Eliminate all windows in the proposed stairway under the gable on the east elevation
   b. Replicate the size and style of the existing small historic window on the east elevation (Sheet A5) and locate the said window in the proposed new bathroom on the first floor.
   c. Allow the relocation of existing double French doors from the proposed entry hall to the living room on the first floor.
   d. Allow the relocation of the single door from the proposed living room to the entry hall on the first floor. A new sidelite shall be installed to fill in the existing opening facing the street.

4. HISTORIC BUILDING. As conditioned above (Condition #3), all exterior alterations and additions proposed in the building permit submittal shall be in substantial compliance with the Secretary of the Interior’s Standards for Rehabilitation. All exterior changes shall not impact the historic nature of existing home and shall not affect the primary façade that retains architectural integrity. Any work involving with the removal or modification of the historic character of the existing home is subject to review by the Chief Planning Official for compliance with the Secretary of the Interior Standards.

5. SOI STANDARDS. The ten Secretary of the Interior’s (SOI) Standards for Rehabilitation shall be printed on one of the initial sheets of the Building Permit Plan Set.

6. NONCOMPLYING FACILITY WALLS. The applicant has agreed to maintain all non-complying walls with the exception of proposed windows changes as shown on Sheet A5.2. These
improvements have been reviewed and found to be in conformance with PAMC Section 18.70.100(b) as described below. Any additional changes would require prior Planning approval.

a. When the damage or destruction of a noncomplying facility affects a portion of the facility that constituted or contributed to the noncompliance, any replacement or reconstruction to such damaged portion shall be accomplished in such manner as not to reinstate the noncompliance or degree of noncompliance caused by the destroyed or damaged portion of the facility, and otherwise in full compliance with this title; however, if the cost to replace or reconstruct the noncomplying portion of the facility to its previous configuration does not exceed fifty percent of the total cost to replace or reconstruct the facility in conformance with this subsection, then the damaged noncomplying portion may be replaced or reconstructed to its previous configuration. In no event shall such replacement or construction create, cause, or increase any noncompliance with the requirements of this title.

7. PROJECT MODIFICATIONS. All modifications to the approved project shall be submitted for review and approval prior to construction. If during the Building Permit review and construction phase, the project is modified by the applicant, it is the responsibility of the applicant to contact the Planning Division/project planner directly to obtain approval of the project modification. It is the applicant’s responsibility to highlight any proposed changes to the project and to bring it to the project planner’s attention.

8. REQUIRED PARKING. All single family homes shall be provided with a minimum of one covered parking space (10 foot by 20 foot interior dimensions) and one uncovered parking space (8.5 feet by 17.5 feet).

9. UTILITY LOCATIONS. In no case shall utilities be placed in a location that requires equipment and/or bollards to encroach into a required parking space. In no case shall a pipeline be placed within 10 feet of a proposed tree and/or tree designated to remain.

10. NOISE PRODUCING EQUIPMENT. All noise producing equipment shall be located outside of required setbacks, except they may project 6 feet into the required street side setbacks. In accordance with Section 9.10.030, No person shall produce, suffer or allow to be produced by any machine, animal or device, or any combination of same, on residential property, a noise level more than six dB above the local ambient at any point outside of the property plane.

11. DAYLIGHT PLANE. The daylight plane must clear the point where the wall plane intersects the top of the roof material.

12. IMPERVIOUS SURFACE. A minimum of 60% of the required front yard shall have a permeable surface that permits water absorption directly into the soil (Section 18.12.040 (h)). The building permit plan set shall include a diagram demonstrating compliance.
13. REQUIRED IR LANDSCAPING/TREES. The following landscaping is required to ensure the project’s conformance with the City’s IR Guidelines and therefore must remain for the life of the structure. Required screening trees and shrubs shall be a minimum size of 24 inch box and measure at least eight (8) feet tall.
   a. All shrubs and/or trees, shown on the site plan, shall be maintained on the property.
   b. Two existing redwood trees protected by construction fencing located along the rear property line on the site plan shall be maintained.

14. NO NET LOSS OF CANOPY. Any proposal of tree removal must be reviewed or approved by Planning Division prior to signing off the final inspection for the building permit.

15. PROJECT ARBORIST. The property owner shall hire a certified arborist to ensure the project conforms to all Planning and Urban Forestry conditions related to landscaping/trees.

16. TREE PROTECTION FENCING. Tree protection fencing shall be required for the front street tree and the rear yard redwood trees.

17. FENCES. Fences and walls shall comply with the applicable provisions of Chapter 16.24, Fences, of the Palo Alto Municipal Code (PAMC). Heights of all new and existing fencing must be shown on the Building Permit plans.
   a. Where the existing fence is located off the subject property and/or where the existing fence is failing, a new Code compliant fence shall be constructed.

18. BASEMENT WALLS: Basement retaining walls shall not extend beyond the exterior wall plane of the first floor of the house, excluding lightwells, below grade patios and approved extensions, to the satisfaction of the Director of Planning.

19. BASEMENT CONSTRUCTION WALLS: Any walls, temporary or otherwise, installed to facilitate construction of a basement shall be removed or constructed in such a way as to not significantly restrict the growth of required landscaping, to the satisfaction of the Director of Planning.

20. DECONSTRUCTION SURVEY: A Deconstruction Survey is required for demolition permit applications submitted on or after January 1, 2017. This survey submittal shall include a list of materials that are salvageable from the project as well as the values of such materials. At this time, the City’s only approved vendor for this service is The ReUse People. Contact them to schedule this FREE service by phone (888)588-9490 or e-mail info@thereusepeople.org. More information can be found at www.TheReusePeople.org. If you have further questions, please contact Scott McKay at scott.mckay@cityofpaloalto.org.

21. PLANNING FINAL INSPECTION. A Planning Division Final inspection will be required to determine substantial compliance with the approved plans prior to the scheduling of a
Building Division final. Any revisions during the building process must be approved by Planning, including but not limited to; materials, fenestration and hard surface locations. Contact your Project Planner at the number below to schedule this inspection.

22. PERMIT EXPIRATION. The project approval shall be valid for a period of **two years** from the original date of approval. Application for a one year extension of this entitlement may be made prior to expiration, by emailing the Current Planning Support Staff (Alicia Spotwood - Alicia.Spotwood@CityofPaloAlto.org). If a timely extension is not received, or the project has already received an extension and the applicant still wishes to pursue this project, they must first file for a new Planning application and pay the associated fees. This new application will be reviewed for conformance with the regulations in place at that time.

23. INDEMNITY: To the extent permitted by law, the Applicant shall indemnify and hold harmless the City, its City Council, its officers, employees and agents (the “indemnified parties”) from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City for its actual attorneys’ fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.

**GREEN BUILDING & ENERGY REACH CODE REQUIREMENTS:**

**NOTICE FOR PERMIT APPLICATIONS SUBMITTED ON OR AFTER 1/1/17:** Please be advised that the Palo Alto City Council has approved Energy Ordinance 5383 and Green Building Ordinance 5393 for all new permit applications with an effective date for January 1st, 2017. To review the upcoming changes, visit the Development Services webpage. On the left-hand side under “EXPLORE”, hover over “Green Building” and select “Compliance.” For information regarding the Model Water Efficient Landscape Ordinance, please see the Outdoor Water Efficiency Webpage for compliance documentation. You may also email Green Building at GreenBuilding@cityofpaloalto.org for specific questions about your project.

24. GREEN BUILDING CONDITIONS OF APPROVAL

a) The project is a residential addition or alterations that increased the building’s conditioned area volume, or size and the altered area is less than 1000 square feet and therefore must meet the California Green Building Code mandatory requirements outlined in Chapter 4, (with local amendments). (Ord. 5393 §1, 2016)

b) **Model Water Efficient Landscape Ordinance (MWELO):** The project is a residential new construction project with an aggregate landscape area of 500 square feet or more included in the project scope of work and therefore shall comply with the requirements of the Landscape Documentation Package (§492.3). Please see the Outdoor Water Efficiency Webpage for compliance documentation. (MWELO Title 23, Chapter 2.7)
c) The project includes a residential alteration or addition that is not considered a repair or maintenance and therefore the building permit applicant shall replace all noncompliant plumbing fixtures within the building with water conserving plumbing fixtures in compliance with California Senate Bill 407. (SB 407/California Civil Code Sections 1101.1 through 1101.8, 2013 CGBC Section 301)

d) The project is a residential construction project of any size and therefore must meet the enhanced construction waste reduction at Tier 2 (80% construction waste reduction). PAMC 16.14.260 (Ord. 5393 § 1 (part), 2016)

25. LOCAL ENERGY REACH CODE CONDITIONS OF APPROVAL

a) The project includes new residential construction of any size and therefore triggers the Local Energy Efficiency Reach Code. For all new single-family residential there are two compliance options and one all-electric exception.

i) Single-Family Residential Options:
   (1) OPTION 1: Performance: New single-family residential construction projects without a solar photovoltaic (PV) system, the performance approach specified within the 2016 California Energy Code shall be used to demonstrate that the TDV Energy of the proposed building is at least 10% less than the TDV Energy of the Standard Design, if the proposed building does not include a PV systems.
      (a) Solar Ready Infrastructure: A dedicated solar zone shall be located on the roof or overhang of the building and have a total area no less than 500 square feet. Install a conduit extending from the roofline and terminating at the electrical panel.

   (2) OPTION 2: Performance: New single-family residential construction projects with a solar photovoltaic (PV) system, the performance approach specified within the 2016 California Energy Code shall be used to demonstrate that the TDV Energy of proposed single-family residential construction is at least 20% less than the TDV Energy of the Standard Design, if the proposed building includes a photovoltaic system.
      (a) Solar Ready Infrastructure: A dedicated solar zone shall be located on the roof or overhang of the building and have a total area no less than 500 square feet. Install a conduit extending from the roofline and terminating at the electrical panel.

b) All Electric Exemption:
   i) All-Electric Exception to the Local Energy Reach Code: New single-family residential construction that is designed and built to be all-electric shall be exempt from the requirements of Section 100.3. Local Energy Efficiency Reach Code.

26. Additional Green Building and Energy Reach Code information, ordinances and applications can be found at http://www.cityofpaloalto.org/gov/depts/ds/green_building/default.asp. If
you have any questions regarding Green Building requirements please call the Green Building Consultant at (650) 329-2179.

PUBLIC WORKS URBAN FORESTRY CONDITIONS – Walter Passmore walter.passmore@cityofpaloalto.org

PRIOR TO DEMOLITION, BUILDING OR GRADING PERMIT ISSUANCE

27. TREE PROTECTION COMPLIANCE. The owner and contractor shall implement all protection and inspection schedule measures, design recommendations and construction scheduling as stated in the TPR & Sheet T-1, and is subject to code compliance action pursuant to PAMC 8.10.080. The required protective fencing shall remain in place until final landscaping and inspection of the project. Project arborist approval must be obtained and documented in the monthly activity report sent to the City. The mandatory Contractor and Arborist Monthly Tree Activity Report shall be sent monthly to the City (pwps@cityofpaloalto.org) beginning with the initial verification approval, using the template in the Tree Technical Manual, Addendum 11.

28. PLAN CHANGES. Revisions and/or changes to plans before or during construction shall be reviewed and responded to by the (a) project site arborist, or (b) landscape architect with written letter of acceptance before submitting the revision to the Building Department for review by Planning, PW or Urban Forestry.

29. TREE DAMAGE. Tree Damage, Injury Mitigation and Inspections apply to Contractor. Reporting, injury mitigation measures and arborist inspection schedule (1-5) apply pursuant to TTM, Section 2.20-2.30. Contractor shall be responsible for the repair or replacement of any publicly owned or protected trees that are damaged during the course of construction, pursuant to Title 8 of the Palo Alto Municipal Code, and city Tree Technical Manual, Section 2.25.

30. GENERAL. The following general tree preservation measures apply to all trees to be retained: No storage of material, topsoil, vehicles or equipment shall be permitted within the tree enclosure area. The ground under and around the tree canopy area shall not be altered. Trees to be retained shall be irrigated, aerated and maintained as necessary to ensure survival. Minimal excavation work shall be allowed within the tree enclosure area. Air, water movement to the soil and soil compaction shall be protected to the possible extent. Landscape changes may enhance root growth or health in areas outside the limit of construction. The project arborist shall be responsible for supervising any construction activities within the tree protection zone.

31. BUILDING PERMIT SUBMITTAL- PROJECT ARBORIST CERTIFICATION LETTER. Prior to submittal for staff review, attach a Project Arborist Certification Letter that he/she has; (a) reviewed the entire building permit plan set submittal and, (b) affirm that ongoing Contractor/Project Arborist site monitoring inspections and reporting have been arranged with the contractor or owner (see Sheet T-1) and, (c) understands that design revisions (site
or plan changes) within a TPZ will be routed to Project Arborist/Contractor for review prior to approval from City.

32. TREE PROTECTION VERIFICATION. Prior to any site work verification from the contractor that the required protective fencing is in place shall be submitted to the Urban Forestry Section. The fencing shall contain required warning sign and remain in place until final inspection of the project.

33. EXCAVATION RESTRICTIONS APPLY (TTM, Sec. 2.20 C & D). Any approved grading, digging or trenching beneath a tree canopy shall be performed using ‘air-spade’ method as a preference, with manual hand shovel as a backup. For utility trenching, including sewer line, roots exposed with diameter of 1.5 inches and greater shall remain intact and not be damaged. If directional boring method is used to tunnel beneath roots, then Table 2-1, Trenching and Tunneling Distance, shall be printed on the final plans to be implemented by Contractor.

PRIOR TO OCCUPANCY

34. PROJECT ARBORIST INSPECTION LETTER. The contractor shall call for a final inspection by the Project Arborist to evaluate all trees to be retained and protected, as indicated in the approved plans, of the activity, health, welfare, mitigation remedies for injuries, if any, and for the long term care of the trees for the new owner. The final project arborist letter report shall be provided to the Planning Department prior to written request for temporary or final occupancy. The final report may be used to navigate any outstanding issues, concerns or security guarantee return process, when applicable.

PUBLIC WORKS ENGINEERING CONDITIONS – Christina Thurman Christina.thurman@cityofpaloalto.org

35. GRADING & DRAINAGE PLAN: The plan set must include a basic grading & drainage plan that includes drainage flow arrows to demonstrate proper drainage of the site. Adjacent grades must slope away from the house a minimum of 2% or 5% for 10-feet per 2013 CBC section 1804.3. Downspouts and splash blocks should be shown on this plan, as well as any site drainage features such as swales, area drains, bubblers, etc. Grading that increases drainage onto, or blocks existing drainage from neighboring properties, will not be allowed. Public Works generally does not allow rainwater to be collected and discharged into the street gutter, but encourages the developer to keep rainwater onsite as much as feasible by directing runoff to landscaped and other pervious areas of the site. See the Grading & Drainage Plan Guidelines for New Single Family Residences on the City’s website. http://www.cityofpaloalto.org/civicax/filebank/documents/2717

36. Provide the following note on the Site Plan and adjacent to the work within the Public road right-of-way. “Any construction within the city’s public road right-of-way shall have an approved Permit for Construction in the Public Street prior to commencement of this work.
THE PERFORMANCE OF THIS WORK IS NOT AUTHORIZED BY THE BUILDING PERMIT ISSUANCE BUT SHOWN ON THE BUILDING PERMIT FOR INFORMATION ONLY.”

37. Provide the following note on the Site Plan and Grading and Drainage Plan: “Contractor shall not stage, store, or stockpile any material or equipment within the public road right-of-way.” Construction phasing shall be coordinate to keep materials and equipment onsite.

38. STORM WATER POLLUTION PREVENTION: The City's full-sized "Pollution Prevention - It’s Part of the Plan" sheet must be included in the plan set. Copies are available from Public Works on our website http://www.cityofpaloalto.org/civicax/filebank/documents/2732 5.

39. Provide the following as a note on the Site Plan: “The contractor may be required to submit a logistics plan to the Public Works Department prior to commencing work that addresses all impacts to the City’s right-of-way, including, but not limited to: pedestrian control, traffic control, truck routes, material deliveries, contractor’s parking, concrete pours, crane lifts, work hours, noise control, dust control, storm water pollution prevention, contractor’s contact, noticing of affected surrounding properties, and schedule of work. The requirement to submit a logistics plan will be dependent on the number of applications Public Works Engineering receives within close proximity to help mitigate and control the impact to the public-right-of-way. If necessary, Public Works may require a Logistics Plan during construction.”

PUBLIC WORKS ELECTRIC ENGINEERING CONDITIONS –Gregory McKernan
Gregory.mckernan@cityofpaloalto.org

GENERAL
40. The applicant shall comply with all the Electric Utility Engineering Department service requirements noted during plan review.

41. The applicant shall be responsible for identification and location of all utilities, both public and private, within the work area. Prior to any excavation work at the site, the applicant shall contact Underground Service Alert (USA) at 1-800-227-2600, at least 48 hours prior to beginning work.

42. The applicant shall submit a request to disconnect all existing utility services and/or meters including a signed affidavit of vacancy, on the form provided by the Building Inspection Division. Utilities will be disconnected or removed within 10 working days after receipt of request. The demolition permit will be issued after all utility services and/or meters have been disconnected and removed.

SUBMITTALS FOR ELECTRIC SERVICE
43. A completed Electric Load Sheet and a full set of plans must be included with all applications involving electrical work. The load sheet must be included with the preliminary submittal.
44. Only one electric service lateral is permitted per parcel. Utilities Rule & Regulation #18.

45. If this project requires padmount transformers, the location of the transformers shall be shown on the site plan and approved by the Utilities Department and the Architectural Review Board. Utilities Rule & Regulations #3 & #16 (see detail comments below).

46. The developer/owner shall provide space for installing padmount equipment (i.e. transformers, switches, and interrupters) and associated substructure as required by the City.

47. The customer shall install all electrical substructures (conduits, boxes and pads) required from the service point to the customer’s switchgear. The design and installation shall be according to the City standards and shown on plans. Utilities Rule & Regulations #16 & #18.

48. Location of the electric panel/switchboard shall be shown on the site plan and approved by the Architectural Review Board and Utilities Department.

49. All utility meters, lines, transformers, backflow preventers, and any other required equipment shall be shown on the landscape and irrigation plans and shall show that no conflict will occur between the utilities and landscape materials. In addition, all aboveground equipment shall be screened in a manner that is consistent with the building design and setback requirements.

50. For underground services, no more than four (4) 750 MCM conductors per phase can be connected to the transformer secondary terminals; otherwise, bus duct must be used for connections to padmount transformers. If customer installs a bus duct directly between the transformer secondary terminals and the main switchgear, the installation of a transition cabinet will not be required.

51. The customer is responsible for sizing the service conductors and other required equipment according to the National Electric Code requirements and the City standards. Utilities Rule & Regulation #18.

52. Any additional facilities and services requested by the Applicant that are beyond what the utility deems standard facilities will be subject to Special Facilities charges. The Special Facilities charges include the cost of installing the additional facilities as well as the cost of ownership. Utilities Rule & Regulation #20.

53. Projects that require the extension of high voltage primary distribution lines or reinforcement of offsite electric facilities will be at the customer’s expense and must be coordinated with the Electric Utility.
**DURING CONSTRUCTION**

Contractors and developers shall obtain permit from the Department of Public Works before digging in the street right-of-way. This includes sidewalks, driveways and planter strips.

54. At least 48 hours prior to starting any excavation, the customer must call Underground Service Alert (USA) at 1-800-227-2600 to have existing underground utilities located and marked. The areas to be check by USA shall be delineated with white paint. All USA markings shall be removed by the customer or contractor when construction is complete.

55. The customer is responsible for installing all on-site substructures (conduits, boxes and pads) required for the electric service. No more than 270 degrees of bends are allowed in a secondary conduit run. All conduits must be sized according to National Electric Code Page 3 of 3 requirements and no 1/2 – inch size conduits are permitted. All off-site substructure work will be constructed by the City at the customer’s expense. Where mutually agreed upon by the City and the Applicant, all or part of the off-site substructure work may be constructed by the Applicant.

56. All new underground conduits and substructures shall be installed per City standards and shall be inspected by the Electrical Underground Inspector before backfilling.

57. The customer is responsible for installing all underground electric service conductors and other required equipment. The installation shall meet the National Electric Code and the City Standards.

58. Meter and switchboard requirements shall be in accordance with Electric Utility Service Equipment Requirements Committee (EUSERC) drawings accepted by Utility and CPA standards for meter installations.

59. Shop/factory drawings for switchboards (400A and greater) and associated hardware must be submitted for review and approval prior to installing the switchgear to: Gregory McKernan, P.E. Power Engineer Utilities Engineering (Electrical) 1007 Elwell Court Palo Alto, CA 94303

60. Catalog cut sheets may not be substituted for factory drawing submittal.

61. All new underground electric services shall be inspected and approved by both the Building Inspection Division and the Electrical Underground Inspector before energizing.

**AFTER CONSTRUCTION & PRIOR TO FINALIZATION**

62. The customer shall provide as-built drawings showing the location of all switchboards, conduits (number and size), conductors (number and size), splice boxes, vaults and switch/transformer pads. PRIOR TO ISSUANCE OF BUILDING OCCUPANCY PERMIT 1. The applicant shall secure a Public Utilities Easement for facilities installed on private property for City use.
63. All required inspections have been completed and approved by both the Building Inspection Division and the Electrical Underground Inspector.

64. All fees must be paid.

65. All Special Facilities contracts or other agreements need to be signed by the City and applicant.

SECTION 5. Variance Approved.

This Record finds that the project was approved with conditions.

INTRODUCED AND PASSED:

AYES: ()

NOES: ()

ABSENT:

ABSTENTIONS:

ATTEST:

__________________________          ____________________________
City Clerk                          Mayor

APPROVED AS TO FORM:               APPROVED:

__________________________          ____________________________
Deputy City Attorney               City Manager

______________________________          ____________________________
Director of Planning and Development Services

______________________________
Director of Administrative Services
January 15, 2020

Martin Bernstein Architect
POB 1261
Palo Alto, CA 94301
Email: martinbernstein617@gmail.com

SUBJECT: 840 Kipling Street; 18PLN-00185 Individual Review, Variance and Historic Review Approval

The Director of Planning and Community Environment has conditionally approved your Individual Review, Variance and Historic Review application, to allow exterior modifications and construction of a 184 square foot first-story addition and a 489 square foot second-story addition to an existing single-story residence on a substandard parcel. The Variance is requested to allow second-story addition on a substandard lot and to allow an approximately 6.3 foot extension to the existing non-complying first-floor wall on the west elevation, where the existing home is located 3.5’ from the interior side property line. Environmental Assessment: Exempt from CEQA in Accordance with Guideline Section 15301 (Additions to Residential). Zoning District: R-2 (Two Family Residential District). This approval was granted pursuant to the Palo Alto Municipal Code Sections 18.76.030 and 18.77.075. As conditioned, the project complies with the R-2 Zone District development regulations.

The Individual Review approval will become effective 14 days from the postmark date of this letter, unless the Planning Department receives a written request for a Directors Hearing prior to the end of the business day 14 calendar-days after the postmark date. Only an applicant, or the owner or tenant of an adjacent property may request a hearing. In accordance with the provisions of PAMC Chapter 18.77.060(c), any person may request a hearing of the Variance decision before the Planning and Transportation Commission. Such request must be made in writing to the Planning Division within 14 calendar days of the publication or mailing of this decision. As the plans may have been revised since the original submittal, interested parties may wish to review the tentatively approved plans online at the City’s Planning Application webpage http://bit.ly/PABuildingEve. If you need assistance reviewing the plans, you may visit the City’s Development Center at 285 Hamilton Avenue.

This letter and attached conditions and findings shall be printed onto building permit plans relating to this approval. If the building permit has not been issued and construction commenced within two year from the effective approval date, this approval will expire. A written request for an extension may be submitted prior to the expiration date. The Director may grant a one-year extension of this approval. Should you have any questions regarding this approval, please do not hesitate to call Christy Fong, Project Planner, at (408) 340-5642 x 110 or e-mail at cfong@m-group.us

Sincerely,

Jodie Gerhardt, AICP
Manager of Current Planning

cc: Neighbor notification list (600 ft)  Attachment: Conditions of Approval
Property Owner
VARIANCE FINDINGS

Variance approval is based on the findings indicated under PAMC Section 18.76.030 (c) and is subject to the Conditions of Approval listed below:

(1) Because of special circumstances applicable to the subject property, including (but not limited to) size, shape, topography, location, or surroundings, the strict application of the requirements and regulations prescribed in this title substantially deprives such property of privileges enjoyed by other property in the vicinity and in the same zoning district as the subject property. Special circumstances that are expressly excluded from consideration are:

(A) The personal circumstances of the property owner, and
(B) Any changes in the size or shape of the subject property made by the property owner or his predecessors in interest while the property was subject to the same zoning designation.

The subject site was developed in 1912 with a detached garage and a single-story residence that is non-complying with regards to the right-side yard setback. The subject site has a lot area of 4,893 square feet (SF) and a lot width of 39.5 feet. The site is considered as substandard because it does not meet the minimum lot width of 50 feet and the lot area is less than 4,980 SF (83% of the minimum 6,000 SF) than what are allowed in the R-2 zoning district.

Most of the substandard lots found on this block have a lot width of 25’ and the lot areas are ranging from approximately 1,970 SF to 2,840 SF, where the remaining properties on this block have a consistent lot width of 50’ and consistent lot area of 5,625 SF. The subject property with a lot width of 39.5’ and lot area of 4,983 SF is unique to the general lot pattern found in the neighborhood, which offers reasonable space for a second story addition to meet the daylight plane requirement unlike other substandard lots in the area.

The subject property includes a residence with historic merit. In order to be consistent with the Secretary of Interior’s Standards for Rehabilitation (SOI standards), additions and alterations to the front façade are generally discouraged as they would alter the historic character of the building. Therefore, this historic home is limited to expansion on the rear part of the building.

The subject property is the only lot on the block that has a non-rectangular shape. The oddly shaped lot includes setbacks that limit the configuration of buildable area. Furthermore, two protected redwood trees in diameters of 42” and 26” are identified in the rear side of the subject property. These trees share a tree protection zone (TPZ) of 35’ in radius. After considering prior impacts and existing intrusions to the root system within the TPZ area, the 27% of undisturbed area is crucial to maintain for the preservation of these trees. The TPZ of 35’ in radius in the rear yard limits the property owners ability to construction by approximately 530 SF of the 2268 SF buildable area on the subject property.

The purpose of the granting of a variance, as outlined in PAMC Section 18.76.030(a) is to provide a way to grant relief when strict application of the zoning regulation would subject development of a site to substantial hardships, constraints, or practical difficulties that do not normally arise on other sites in the vicinity and same zoning district.

As noted above, the subject property may share similar zoning and historic characteristics as other properties within the immediately vicinity. While the unique size present opportunities for expansion, the shape and natural surrounding impose constraints to the configuration and the size of the buildable area. These site characteristics differentiate this property from other substandard and regular lots within the same zoning district.
(2) The granting of the application shall not affect substantial compliance with the regulations or constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and in the same zoning district as the subject property, and

The R-2 zoning regulation prohibits second floor additions on substandard lots and encourages expansion on the ground floor. As noted above, the subject property presents various limitations for expansion on the ground floor.

With the loss of approximately 530 SF development potential within the buildable area on the ground floor, the project will expand about 184 SF on the first floor outside of the TPZ to preserve the protected trees and requests a 489 SF addition (roughly 22% of total floor area) to be placed on the second floor. The additions would be built within the limitations set forth for floor area and lot coverage in the R-2 zoning district.

The granting of second story addition is in compliance with the regulations of daylight planes and setbacks. The proposed second floor addition is consistent with the height restriction for two-story development in the R-2 zoning district. It will not constitute a grant of privileges inconsistent with the limitation upon other properties in the vicinity and in the same zoning district as the subject property.

The granting of an approximate 6 foot extension of the existing legal non-complying wall, that is setback 3.5 feet from the west side property line, is minor in nature. This request would normally fit within the specific limits set forth for Home Improvement Exception. The design of this small addition will be consistent with the SOI standards. With the objective to locate available floor area for the site on the first floor, the granting of this extension will not constitute a grant of privileges inconsistent with the limitation upon other properties in the vicinity and in the same zoning district as the subject property.

(3) The granting of the application is consistent with the Palo Alto Comprehensive Plan and the purposes of this title (Zoning), and

The project is generally consistent with the objectives and relevant policies in the Comprehensive Plan. The project will rehabilitate a residence with historic merit by preserving its historic integrity consistent with the SOI Standards (Policy L-2.9, L-6.4, L-7.1, L-7.8). The proposed site plan is sensitive to surrounding landscape and will minimize impact to two protected trees (Policy N-2.9, N-2.10). The project includes additions with appropriate scale and height that are compatible with the neighborhood and adjacent structures (Policy L-3.1, L-6.1). The proposed additions will preserve natural light exposure for nearby single-family residences by complying to current regulations for daylight planes and setbacks (Policy L-6.8). The project is consistent with the Comprehensive Plan as a whole.

The subject property is located within the South of Forest Area Phase I Coordinated Area Plan (SOFA I CAP) area. It is in a transitional area between R-2 and DHS (Detached Housing on Small Lots) zoning districts. The project, with increased living space, will support a range of housing options for various ages, household sizes, lifestyles and incomes in the neighborhood (Policy H-6). Through a request of granting exception to development standards, the project will reconfigure the house footprint and massing to preserve significant trees (Policy DC-7). The project is designed to be consistent with the SOI standards, which will reinforce its original architectural style and use (Policy DC-9). Overall, the project is compatible with the historical patterns of the surrounding single-family areas and is generally consistent with the SOFA I CAP objectives and policies.
The purpose of R-2 zoning district is 'intended to allow a second dwelling unit under the same ownership as the initial dwelling unit on appropriate sites in areas designated for single-family use by the Palo Alto Comprehensive Plan, under regulations that preserve the essential character of single-family use.' (PAMC 18.10.010(b)). The project will maintain its original use as single-family residential and the proposed additions will be consistent with the existing architecture to preserve the essential character of single-family use. Although two dwelling unit is encouraged on appropriate sites within the area, the project site will not meet the minimum site area of 7,500 square feet, that was established by the Comprehensive Plan (Housing Element) and R-2 zoning regulations, to permit additional residential units. The project may; however, include a separate, self-contained accessory dwelling unit for rental. Such option is available but is not mandatory for developments in the R-2 zoning district. Given the site constraints, the project is generally consistent with the purpose of R-2 zoning regulations.

(4) The granting of the application will not be detrimental or injurious to property or improvements in the vicinity, will not be detrimental to the public health, safety, general welfare, or convenience.

The granting of the variance application would not be detrimental or injurious to property or improvements in the vicinity. The subject property is not located in proximity to designated view corridors or scenic routes. Obstructed view from neighboring properties is not considered as detrimental or injurious in nature. Though, the granting of the variance application shall consider neighbor's concerns with respect to privacy, height and scale at the neighborhood scale.

The proposed additions are in substantial compliance with the five Individual Review Guidelines for single-family homes with the goals to promote new construction that is compatible with existing residential neighborhoods.

The proposed second story window size and placement with above 5' sill height on both left and right elevations will mitigate privacy impact by minimizing the opportunity for direct sight lines into windows and patios of neighboring properties. The proposed second floor addition is rectangular in shape and is setback from the first floor wall planes so that massing is not highly expressed from all sides. In addition, the proposed second floor addition will be built within the required side and rear daylight planes at a height of about 26'-8". The existing building height is 18' and the height limit for two-story development in the R-2 zoning district is 30'. The overall height is still considerably lower than some nearby homes on this block.

The existing west side wall is setback 3’ 6” from the west interior property line, therefore this wall is non-conforming. The project will replace one window on this existing wall. This replacement will not exceed the thresholds contained within Code Section 18.70.100, therefore the wall may remain. Additionally, an approximate 6 foot extension to this existing 40.5 foot wall will be added to the rear part of the home and will not be visible from the street. The proposed extension will not decrease privacy and the scale is compatible with the existing home. The proposed extension will not be detrimental to public health and safety, general welfare or convenience.

As conditioned, the project is required to be in compliance with the Municipal Code and other relevant regulations. The proposed additions are not found to pose potential risk to public health, safety, general welfare or convenience. The granting of the variance application would not be detrimental or injurious to property or improvements in the vicinity.
INDIVIDUAL REVIEW, VARIANCE AND HISTORIC REVIEW
CONDITIONS OF APPROVAL
840 Kipling Street, 18PLN-00185

The approval is subject to compliance with the following conditions. The property owner is solely responsible for the conditions of approval being met. Planning staff recommends the property owner discuss the conditions of approval with the contractor, designer, etc. and contact Planning staff with any questions.

The approval is subject to the following conditions:

PLANNING DIVISION CONDITIONS:

1. CONFORMANCE WITH PLANS. Construction and development shall conform to the approved plans entitled, "Reyna/Kutlu Residence, 840 Kipling Street, Palo Alto, CA 94301, APN 120-17-028," stamped as received by the City on November 20, 2019 on file with the Planning Department, 250 Hamilton Avenue, Palo Alto, California except as modified by these conditions of approval.

2. BUILDING PERMIT. Apply for a building permit and meet any and all conditions of the Planning, Fire, Public Works, and Building Departments.

3. BUILDING PERMIT PLAN SET. A copy of this cover letter and conditions of approval shall be printed on the second page of the plans submitted for building permit. Project plans submitted for Building permits shall incorporate the following changes:
   a. Eliminate all windows in the proposed stairway under the gable on the east elevation
   b. Replicate the size and style of the existing small historic window on the east elevation (Sheet A5) and locate the said window in the proposed new bathroom on the first floor.
   c. Allow the relocation of existing double French doors from the proposed entry hall to the living room on the first floor.
   d. Allow the relocation of the single door from the proposed living room to the entry hall on the first floor. A new sidelite shall be installed to fill in the existing opening facing the street.

4. HISTORIC BUILDING. As conditioned above (Condition #3), all exterior alterations and additions proposed in the building permit submittal shall be in substantial compliance with the Secretary of the Interior’s Standards for Rehabilitation. All exterior changes shall not impact the historic nature of existing home and shall not affect the primary façade that retains architectural integrity. Any work involving with the removal or modification of the historic character of the existing home is subject to review by the Chief Planning Official for compliance with the Secretary of the Interior Standards.

5. SOI STANDARDS. The ten Secretary of the Interior’s (SOI) Standards for Rehabilitation shall be printed on one of the initial sheets of the Building Permit Plan Set.

6. NONCOMPLYING FACILITY WALLS. The applicant has agreed to maintain all non-complying walls with the exception of proposed windows changes as shown on Sheet A5.2. These improvements have been reviewed and found to be in conformance with PAMC Section 18.70.100(b) as described below. Any additional changes would require prior Planning approval.
a. When the damage or destruction of a noncomplying facility affects a portion of the facility that constituted or contributed to the noncompliance, any replacement or reconstruction to such damaged portion shall be accomplished in such manner as not to reinstate the noncompliance or degree of noncompliance caused by the destroyed or damaged portion of the facility, and otherwise in full compliance with this title; however, if the cost to replace or reconstruct the noncomplying portion of the facility to its previous configuration does not exceed fifty percent of the total cost to replace or reconstruct the facility in conformance with this subsection, then the damaged noncomplying portion may be replaced or reconstructed to its previous configuration. In no event shall such replacement or construction create, cause, or increase any noncompliance with the requirements of this title.

7. PROJECT MODIFICATIONS: All modifications to the approved project shall be submitted for review and approval prior to construction. If during the Building Permit review and construction phase, the project is modified by the applicant, it is the responsibility of the applicant to contact the Planning Division/project planner directly to obtain approval of the project modification. It is the applicant's responsibility to highlight any proposed changes to the project and to bring it to the project planner's attention.

8. REQUIRED PARKING: All single family homes shall be provided with a minimum of one covered parking space (10 foot by 20 foot interior dimensions) and one uncovered parking space (8.5 feet by 17.5 feet).

9. UTILITY LOCATIONS: In no case shall utilities be placed in a location that requires equipment and/or bollards to encroach into a required parking space. In no case shall a pipeline be placed within 10 feet of a proposed tree and/or tree designated to remain.

10. NOISE PRODUCING EQUIPMENT: All noise producing equipment shall be located outside of required setbacks, except they may project 6 feet into the required street side setbacks. In accordance with Section 9.10.030, No person shall produce, suffer or allow to be produced by any machine, animal or device, or any combination of same, on residential property, a noise level more than six dB above the local ambient at any point outside of the property plane.

11. DAYLIGHT PLANE: The daylight plane must clear the point where the wall plane intersects the top of the roof material.

12. IMPERVIOUS SURFACE: A minimum of 60% of the required front yard shall have a permeable surface that permits water absorption directly into the soil (Section 18.12.040 (h)). The building permit plan set shall include a diagram demonstrating compliance.

13. REQUIRED IR LANDSCAPING/TREES. The following landscaping is required to ensure the project's conformance with the City's IR Guidelines and therefore must remain for the life of the structure. Required screening trees and shrubs shall be a minimum size of 24 inch box and measure at least eight (8) feet tall.
   a. All shrubs and/or trees, shown on the site plan, shall be maintained on the property.
   b. Two existing redwood trees protected by construction fencing located along the rear property line on the site plan shall be maintained.

14. NO NET LOSS OF CANOPY. Any proposal of tree removal must be reviewed or approved by Planning Division prior to signing off the final inspection for the building permit.

15. PROJECT ARBORIST. The property owner shall hire a certified arborist to ensure the project conforms to all Planning and Urban Forestry conditions related to landscaping/trees.
16. TREE PROTECTION FENCING. Tree protection fencing shall be required for the front street tree and the rear yard redwood trees.

17. FENCES. Fences and walls shall comply with the applicable provisions of Chapter 16.24, Fences, of the Palo Alto Municipal Code (PAMC). Heights of all new and existing fencing must be shown on the Building Permit plans.
   a. Where the existing fence is located off the subject property and/or where the existing fence is failing, a new Code compliant fence shall be constructed.

18. BASEMENT WALLS: Basement retaining walls shall not extend beyond the exterior wall plane of the first floor of the house, excluding lightwells, below grade patios and approved extensions, to the satisfaction of the Director of Planning.

19. BASEMENT CONSTRUCTION WALLS: Any walls, temporary or otherwise, installed to facilitate construction of a basement shall be removed or constructed in such a way as to not significantly restrict the growth of required landscaping, to the satisfaction of the Director of Planning.

20. DECONSTRUCTION SURVEY: A Deconstruction Survey is required for demolition permit applications submitted on or after January 1, 2017. This survey submittal shall include a list of materials that are salvageable from the project as well as the values of such materials. At this time, the City’s only approved vendor for this service is The ReUse People. Contact them to schedule this FREE service by phone (888)588-9490 or e-mail info@thereusepeople.org. More information can be found at www.TheReusePeople.org. If you have further questions, please contact Scott McKay at scott.mckay@cityofpaloalto.org.

21. PLANNING FINAL INSPECTION. A Planning Division Final inspection will be required to determine substantial compliance with the approved plans prior to the scheduling of a Building Division final. Any revisions during the building process must be approved by Planning, including but not limited to; materials, fenestration and hard surface locations. Contact your Project Planner at the number below to schedule this inspection.

22. PERMIT EXPIRATION. The project approval shall be valid for a period of two years from the original date of approval. Application for a one year extension of this entitlement may be made prior to expiration, by emailing the Current Planning Support Staff (Alicia Spotwood - Alicia.Spotwood@CityofPaloAlto.org). If a timely extension is not received, or the project has already received an extension and the applicant still wishes to pursue this project, they must first file for a new Planning application and pay the associated fees. This new application will be reviewed for conformance with the regulations in place at that time.

23. INDEMNITY: To the extent permitted by law, the Applicant shall indemnify and hold harmless the City, its City Council, its officers, employees and agents (the “indemnified parties”) from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City for its actual attorneys’ fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.
GREEN BUILDING & ENERGY REACH CODE REQUIREMENTS:

NOTICE FOR PERMIT APPLICATIONS SUBMITTED ON OR AFTER 1/1/17: Please be advised that the Palo Alto City Council has approved Energy Ordinance 5383 and Green Building Ordinance 5393 for all new permit applications with an effective date for January 1st, 2017. To review the upcoming changes, visit the Development Services webpage. On the left-hand side under “EXPLORE”, hover over “Green Building” and select “Compliance.” For information regarding the Model Water Efficient Landscape Ordinance, please see the Outdoor Water Efficiency Webpage for compliance documentation. You may also email Greer Building at GreenBuilding@cityofpaloalto.org for specific questions about your project.

24. GREEN BUILDING CONDITIONS OF APPROVAL

a) The project is a residential addition or alterations that increased the building’s conditioned area volume, or size and the altered area is less than 1000 square feet and therefore must meet the California Green Building Code mandatory requirements outlined in Chapter 4, (with local amendments). (Ord. 5393 §1, 2016)

b) Model Water Efficient Landscape Ordinance (MWELO): The project is a residential new construction project with an aggregate landscape area of 500 square feet or more included in the project scope of work and therefore shall comply with the requirements of the Landscape Documentation Package (§492.3). Please see the Outdoor Water Efficiency Webpage for compliance documentation. (MWELO Title 23, Chapter 2.7)

c) The project includes a residential alteration or addition that is not considered a repair or maintenance and therefore the building permit applicant shall replace all non-compliant plumbing fixtures within the building with water conserving plumbing fixtures in compliance with California Senate Bill 407. (SB 407/California Civil Code Sections 1101.1 through 1101.8, 2013 CGBC Section 301)

d) The project is a residential construction project of any size and therefore must meet the enhanced construction waste reduction at Tier 2 (80% construction waste reduction). PAMC 16.14.260 (Ord. 5393 §1 (part), 2016)

25. LOCAL ENERGY REACH CODE CONDITIONS OF APPROVAL

a) The project includes new residential construction of any size and therefore triggers the Local Energy Efficiency Reach Code. For all new single-family residential there are two compliance options and one all-electric exception.

i) Single-Family Residential Options:
(1) OPTION 1: Performance: New single-family residential construction projects without a solar photovoltaic (PV) system, the performance approach specified within the 2016 California Energy Code shall be used to demonstrate that the TDV Energy of the proposed building is at least 10% less than the TDV Energy of the Standard Design, if the proposed building does not include a PV systems.
   (a) Solar Ready Infrastructure: A dedicated solar zone shall be located on the roof or overhang of the building and have a total area no less than 500 square feet. Install a conduit extending from the roofline and terminating at the electrical panel.
(2) OPTION 2: Performance: New single-family residential construction projects with a solar photovoltaic (PV) system, the performance approach specified within the 2016 California
Energy Code shall be used to demonstrate that the TDV Energy of proposed single-family residential construction is at least 20% less than the TDV Energy of the Standard Design, if the proposed building includes a photovoltaic system.
(a) Solar Ready Infrastructure: A dedicated solar zone shall be located on the roof or overhang of the building and have a total area no less than 500 square feet. Install a conduit extending from the roofline and terminating at the electrical panel.

b) All Electric Exemption:
   i) All-Electric Exception to the Local Energy Reach Code: New single-family residential construction that is designed and built to be all-electric shall be exempt from the requirements of Section 100.3. Local Energy Efficiency Reach Code.

26. Additional Green Building and Energy Reach Code information, ordinances and applications can be found at http://www.cityofpaloalto.org/gov/depts/ds/green_building/default.asp. If you have any questions regarding Green Building requirements please call the Green Building Consultant at (650) 329-2179.

PUBLIC WORKS URBAN FORESTRY CONDITIONS – Walter Passmore walter.passmore@cityofpaloalto.org

PRIOR TO DEMOLITION, BUILDING OR GRADING PERMIT ISSUANCE

27. TREE PROTECTION COMPLIANCE. The owner and contractor shall implement all protection and inspection schedule measures, design recommendations and construction scheduling as stated in the TPR & Sheet T-1, and is subject to code compliance action pursuant to PAMC 8.10.080. The required protective fencing shall remain in place until final landscaping and inspection of the project. Project arborist approval must be obtained and documented in the monthly activity report sent to the City. The mandatory Contractor and Arborist Monthly Tree Activity Report shall be sent monthly to the City (pwps@cityofpaloalto.org) beginning with the initial verification approval, using the template in the Tree Technical Manual, Addendum 11.

28. PLAN CHANGES. Revisions and/or changes to plans before or during construction shall be reviewed and responded to by the (a) project site arborist, or (b) landscape architect with written letter of acceptance before submitting the revision to the Building Department for review by Planning, PW or Urban Forestry.

29. TREE DAMAGE. Tree Damage, Injury Mitigation and Inspections apply to Contractor. Reporting, injury mitigation measures and arborist inspection schedule (1-5) apply pursuant to TTM, Section 2.20-2.30. Contractor shall be responsible for the repair or replacement of any publicly owned or protected trees that are damaged during the course of construction, pursuant to Title 8 of the Palo Alto Municipal Code, and city Tree Technical Manual, Section 2.25.

30. GENERAL. The following general tree preservation measures apply to all trees to be retained: No storage of material, topsoil, vehicles or equipment shall be permitted within the tree enclosure area. The ground under and around the tree canopy area shall not be altered. Trees to be retained shall be irrigated, aerated and maintained as necessary to ensure survival. Minimal excavation work shall be allowed within the tree enclosure area. Air, water movement to the soil and soil compaction shall be protected to the possible extent. Landscape changes may enhance root growth or health in areas outside the limit of construction. The project arborist shall be responsible for supervising any construction activities within the tree protection zone.
31. BUILDING PERMIT SUBMITTAL- PROJECT ARBORIST CERTIFICATION LETTER. Prior to submittal for staff review, attach a Project Arborist Certification Letter that he/she has; (a) reviewed the entire building permit plan set submittal and, (b) affirm that ongoing Contractor/Project Arborist site monitoring inspections and reporting have been arranged with the contractor or owner (see Sheet T-1) and, (c) understands that design revisions (site or plan changes) within a TPZ will be routed to Project Arborist/Contractor for review prior to approval from City.

32. TREE PROTECTION VERIFICATION. Prior to any site work verification from the contractor that the required protective fencing is in place shall be submitted to the Urban Forestry Section. The fencing shall contain required warning sign and remain in place until final inspection of the project.

33. EXCAVATION RESTRICTIONS APPLY (TTM, Sec. 2.20 C & D). Any approved grading, digging or trenching beneath a tree canopy shall be performed using ‘air-spade’ method as a preference, with manual hand shovel as a backup. For utility trenching, including sewer line, roots exposed with diameter of 1.5 inches and greater shall remain intact and not be damaged. If directional boring method is used to tunnel beneath roots, then Table 2-1, Trenching and Tunneling Distance, shall be printed on the final plans to be implemented by Contractor.

PRIOR TO OCCUPANCY

34. PROJECT ARBORIST INSPECTION LETTER. The contractor shall call for a final inspection by the Project Arborist to evaluate all trees to be retained and protected, as indicated in the approved plans, of the activity, health, welfare, mitigation remedies for injuries, if any, and for the long term care of the trees for the new owner. The final project arborist letter report shall be provided to the Planning Department prior to written request for temporary or final occupancy. The final report may be used to navigate any outstanding issues, concerns or security guarantee return process, when applicable.

PUBLIC WORKS ENGINEERING CONDITIONS – Christina Thurman Christina.thurman@cityofpaloalto.org

35. GRADING & DRAINAGE PLAN: The plan set must include a basic grading & drainage plan that includes drainage flow arrows to demonstrate proper drainage of the site. Adjacent grades must slope away from the house a minimum of 2% or 5% for 10-feet per 2013 CBC section 1804.3. Downspouts and splash blocks should be shown on this plan, as well as any site drainage features such as swales, area drains, bubblers, etc. Grading that increases drainage onto, or blocks existing drainage from neighboring properties, will not be allowed. Public Works generally does not allow rainwater to be collected and discharged into the street gutter, but encourages the developer to keep rainwater onsite as much as feasible by directing runoff to landscaped and other pervious areas of the site. See the Grading & Drainage Plan Guidelines for New Single Family Residences on the City’s website. http://www.cityofpaloalto.org/civicax/filebank/documents/2717

36. Provide the following note on the Site Plan and adjacent to the work within the Public road right-of-way. “Any construction within the city’s public road right-of-way shall have an approved Permit for Construction in the Public Street prior to commencement of this work. THE PERFORMANCE OF THIS WORK IS NOT AUTHORIZED BY THE BUILDING PERMIT ISSUANCE BUT SHOWN ON THE BUILDING PERMIT FOR INFORMATION ONLY.”

37. Provide the following note on the Site Plan and Grading and Drainage Plan: “Contractor shall not stage, store, or stockpile any material or equipment within the public road right-of-way.” Construction phasing shall be coordinate to keep materials and equipment onsite.
38. STORM WATER POLLUTION PREVENTION: The City's full-sized "Pollution Prevention - It's Part of the Plan" sheet must be included in the plan set. Copies are available from Public Works on our website http://www.cityofpaloalto.org/civicax/filebank/documents/27325.

39. Provide the following as a note on the Site Plan: "The contractor may be required to submit a logistics plan to the Public Works Department prior to commencing work that addresses all impacts to the City's right-of-way, including, but not limited to: pedestrian control, traffic control, truck routes, material deliveries, contractor's parking, concrete pours, crane lifts, work hours, noise control, dust control, storm water pollution prevention, contractor's contact, noticing of affected surrounding properties, and schedule of work. The requirement to submit a logistics plan will be dependent on the number of applications Public Works Engineering receives within close proximity to help mitigate and control the impact to the public-right-of-way. If necessary, Public Works may require a Logistics Plan during construction."

PUBLIC WORKS ELECTRIC ENGINEERING CONDITIONS –
Gregory McKernan Gregory.mckernan@cityofpaloalto.org

GENERAL

40. The applicant shall comply with all the Electric Utility Engineering Department service requirements noted during plan review.

41. The applicant shall be responsible for identification and location of all utilities, both public and private, within the work area. Prior to any excavation work at the site, the applicant shall contact Underground Service Alert (USA) at 1-800-227-2600, at least 48 hours prior to beginning work.

42. The applicant shall submit a request to disconnect all existing utility services and/or meters including a signed affidavit of vacancy, on the form provided by the Building Inspection Division. Utilities will be disconnected or removed within 10 working days after receipt of request. The demolition permit will be issued after all utility services and/or meters have been disconnected and removed.

SUBMITTALS FOR ELECTRIC SERVICE

43. A completed Electric Load Sheet and a full set of plans must be included with all applications involving electrical work. The load sheet must be included with the preliminary submittal.

44. Only one electric service lateral is permitted per parcel. Utilities Rule & Regulation #18. Page 2 of 3

45. If this project requires padmount transformers, the location of the transformers shall be shown on the site plan and approved by the Utilities Department and the Architectural Review Board. Utilities Rule & Regulations #3 & #16 (see detail comments below).

46. The developer/owner shall provide space for installing padmount equipment (i.e. transformers, switches, and interrupters) and associated substructure as required by the City.

47. The customer shall install all electrical substructures (conduits, boxes and pads) required from the service point to the customer's switchgear. The design and installation shall be according to the City standards and shown on plans. Utilities Rule & Regulations #16 & #18.
48. Location of the electric panel/switchboard shall be shown on the site plan and approved by the Architectural Review Board and Utilities Department.

49. All utility meters, lines, transformers, backflow preventers, and any other required equipment shall be shown on the landscape and irrigation plans and shall show that no conflict will occur between the utilities and landscape materials. In addition, all aboveground equipment shall be screened in a manner that is consistent with the building design and setback requirements.

50. For underground services, no more than four (4) 750 MCM conductors per phase can be connected to the transformer secondary terminals; otherwise, bus duct must be used for connections to padmount transformers. If customer installs a bus duct directly between the transformer secondary terminals and the main switchgear, the installation of a transition cabinet will not be required.

51. The customer is responsible for sizing the service conductors and other required equipment according to the National Electric Code requirements and the City standards. Utilities Rule & Regulation #18.

52. Any additional facilities and services requested by the Applicant that are beyond what the utility deems standard facilities will be subject to Special Facilities charges. The Special Facilities charges include the cost of installing the additional facilities as well as the cost of ownership. Utilities Rule & Regulation #20.

53. Projects that require the extension of high voltage primary distribution lines or reinforcement of offsite electric facilities will be at the customer's expense and must be coordinated with the Electric Utility.

DURING CONSTRUCTION

54. Contractors and developers shall obtain permit from the Department of Public Works before digging in the street right-of-way. This includes sidewalks, driveways and planter strips.

55. At least 48 hours prior to starting any excavation, the customer must call Underground Service Alert (USA) at 1-800-227-2600 to have existing underground utilities located and marked. The areas to be check by USA shall be delineated with white paint. All USA markings shall be removed by the customer or contractor when construction is complete.

56. The customer is responsible for installing all on-site substructures (conduits, boxes and pads) required for the electric service. No more than 270 degrees of bends are allowed in a secondary conduit run. All conduits must be sized according to National Electric Code Page 3 of 3 requirements and no 1/2 – inch size conduits are permitted. All off-site substructure work will be constructed by the City at the customer’s expense. Where mutually agreed upon by the City and the Applicant, all or part of the off-site substructure work may be constructed by the Applicant.

57. All new underground conduits and substructures shall be installed per City standards and shall be inspected by the Electrical Underground Inspector before backfilling.

58. The customer is responsible for installing all underground electric service conductors and other required equipment. The installation shall meet the National Electric Code and the City Standards.

59. Meter and switchboard requirements shall be in accordance with Electric Utility Service Equipment Requirements Committee (EUSERC) drawings accepted by Utility and CPA standards for meter installations.
60. Shop/factory drawings for switchboards (400A and greater) and associated hardware must be submitted for review and approval prior to installing the switchgear to: Gregory McKernan, P.E. Power Engineer Utilities Engineering (Electrical) 1007 Elwell Court Palo Alto, CA 94303

61. Catalog cut sheets may not be substituted for factory drawing submittal.

62. All new underground electric services shall be inspected and approved by both the Building Inspection Division and the Electrical Underground Inspector before energizing.

AFTER CONSTRUCTION & PRIOR TO FINALIZATION

63. The customer shall provide as-built drawings showing the location of all switchboards, conduits (number and size), conductors (number and size), splice boxes, vaults and switch/transformer pads. PRIOR TO ISSUANCE OF BUILDING OCCUPANCY PERMIT 1. The applicant shall secure a Public Utilities Easement for facilities installed on private property for City use.

64. All required inspections have been completed and approved by both the Building Inspection Division and the Electrical Underground Inspector.

65. All fees must be paid.

66. All Special Facilities contracts or other agreements need to be signed by the City and applicant.

End Project Conditions
February 3, 2020

Planning and Traffic Commission  
City of Palo Alto  
Planning & Community Environment  
250 Hamilton Avenue  
Palo Alto, CA 94301

Re: 840 Kipling Street - 18PLN-00185

Dear Chair and PTC Members:

I am writing today on behalf of Alexander Gubbens and Karen Han, owners of 441 Channing Avenue, in connection with the variance and Historic Resource applications submitted by the owners of 840 Kipling Street, their immediate neighbors. The owners of 840 Kipling are seeking a variance to add a 489 square foot second story to their property. The applications have been conditionally approved by City Staff.

Mr. Gubbens and Ms. Han want to make it clear that they do not oppose an addition. Rather, they oppose a second story addition for the simple reason that the ground floor has ample space on which to build an addition, whereas a second story requires a variance and would be injurious to the value and enjoyment of the Gubbens/Han home.

It is important to note at the outset that Mr. Gubbens and Ms. Han first informed the owners of 840 Kipling of their opposition to a second story addition in January 2016 and proactively informed the City’s Planning Department of their concerns back in May 2017, more than a year before any plans were even submitted. Mr. Gubbens and Ms. Han have, since the very beginning, supported an addition on the ground floor. Despite this, the property owners have steadfastly refused to look at options available to them that would avoid a second story and use more of the ground floor.

From various written communication Mr. Gubbens and Ms. Han have seen they are further concerned that the owners of 840 Kipling were not required to fully study a number of feasible alternatives to a second story addition but were instead required to make only minor revisions to their design and obtain conditional approval of their proposed second-story addition. Since a variance should be a last resort, City Staff should have required additional studies be done.

Mr. Gubbens and Ms. Han believe, as shown below, that such a zoning-compliant reward
expansion is highly feasible and should be explored. Thus, we are asking that the PTC deny the variance. 840 Kipling is zoned R-2 which Zone is entitled “Low Density Residential”. 840 Kipling is also part of the South of Forest Avenue Coordinated Area Plan Phase I (“SOFA I CAP”) and has been determined to be an historic property by the Historic Resources Board (“HRB”).

Within the R-2 zone 840 Kipling, is a substandard lot meaning that it is less than 50 feet wide and the total area of the lot is less than 83% of the minimum lot size. (Palo Alto Municipal Code §18.10.040(b)(1)(A)). Thus, to even be classified as a substandard lot is already a statement that the lot is very small.

Palo Alto Municipal Code § 18.10 contains the regulations that determine what can and cannot be built on 840 Kipling. § 18.10.040(a) provides that the minimum lot size for an R-2 zoned property is 6,000 square feet. The parcel at 840 Kipling is 4,893 square feet and is therefore a substandard lot under Municipal Code § 18.10.040(b). Moreover, at thirty-nine (39) feet, the width of the 840 Kipling lot is less than 80% of the minimum fifty-foot width required in the Palo Alto Municipal Code for a standard lot in the R-2 Zone. Thus, when viewing the property from the street, the proposed remodeled home all but overwhelms the substandard lot size.

As a substandard lot the Municipal Code expressly provides that “[t]here shall be a limit of one habitable floor.” Municipal Code § 18.10.040(b)(1)(B)(ii) (emphasis added). Thus, the law in Palo Alto is clear that no second story is allowed on a substandard lot in the R-2 zone. Because of that limitation, the property owner applied for a variance.

Palo Alto Municipal Code § 18.76.030(c) (1) (A) specifically states that

“Special circumstances that are expressly excluded from consideration are . . . The personal circumstances of the property owner.”

However, in arguing in favor of their request for a variance to build a second story, the property owners made it expressly clear that the need for the second story addition was driven entirely by personal circumstances. As the property owner told the City Staff:

“We were actually looking originally for a three bedroom two bathrooms so that we could have some space to grow in because we were looking for a family. Then when we walked into 840 Kipling this was home. This was the first home we’d walked into that just grabbed us and said this is where we want to live. You know it’s smaller than we wanted but the beauty of it the charm of it just made our decision when we walked in … Now we’ve been there 20 years. We now have a teenage son we have two aging moms that want to visit and take of as best we can and this two in one is just not working.”
While it is understandable that the property owner wants a larger home than the one purchased due to family concerns, the fact is that such personal issues are not a proper consideration for the granting of a variance. “Special circumstances that are expressly excluded from consideration are . . . The personal circumstances of the property owner.” Palo Alto Municipal Code § 18.76.030(c) (1) (A). Thus, whether or not the property owner’s family is getting larger is not a proper basis on which to grant a variance.

In addition, the house at 840 Kipling is also only 3.5 feet away from the property line with its nearest neighbor at 836 Kipling versus the 6-foot interior side yard setback that is required. 836 Kipling, also a substandard lot, has only a 2.5 ft side yard setback with 840 Kipling and no side yard setback at all with 834 Kipling. 836 in fact overhangs 2 ft into 834’s lot! 840 and 836 together have only 6 ft of interior side yard setbacks, far short of the total 18 ft (3 x 6 ft) required by current zoning. This section of Kipling is already far too densely developed. This overall configuration should have been given significant consideration by City Staff, but it does not appear from the January 15, 2020 letter that it did.

Plan Sheet C.0 of the plans submitted for 840 Kipling, shows that there is ample room in the rear yard of the property to construct an addition that would comply with the “one habitable floor” limit for a substandard lot in the R-2 zone. It appears from the Findings, that one of the primary features about this property that make it appropriate for a variance, at least according to City Staff, is the thirty-five foot (35’) Tree Protection Zone (TPZ). In fact, the property owner has pointed out that the intrusion into the Tree Protection Zone is already seventy-three percent according to Plan Sheet T2. What the property owner neglects to address is that most of the intrusion is from structures owned by neighbors, including a neighboring home, cottage and garage. All of these structures intrude much further than the property owners would even if they built the entire addition in the rear yard! Moreover, it appears that there was no attempt to look at whether there were roots in the area where a ground floor addition could be built and whether or not those roots could be cut or blocked without harming the tree. Again, why such a study was not required prior to staff conditionally granting a variance is unknown.

The property owners also do not address that back in 2013 they dug a trench and cut major roots within feet of the very trees that they now claim are so sensitive and important to protect! Finally, neither the City nor the property owner address that just on the other side of the Gubbens/Han property, at 400 Channing, new development with basements was allowed wherein the new homes all but touch a number of protected oak and redwood trees!!

There were three different reports prepared by the property owner relating to the TPZ. One concludes that it should be twenty-five feet, another thirty-five feet and another 42 feet! Clearly this is not an exact science and given how close other structures, including
the garage at the property, are to the trees, some additional consideration, engineering and study could have and should have been done to determine whether the entire addition could be built in the real yard.

As to the TPZ being a critical aspect for granting the variance, as suggested by the Findings, there is no explanation for how those findings are consistent with even just the three new construction projects nearest to the property that received City approval. 441 Channing was built with a basement within 10 feet of a large protected oak tree. 458 Channing was built deep into the TPZ of an even larger protected oak tree than the trees on 840 Kipling. The development at 400 Channing is right now finishing two new homes with basements within 10 feet of a number of protected oak and redwood trees. All of the trees at 400, 458 and 441 Channing continue to do very well despite the far more significant intrusion into the tree protection zone on those properties than is being considered here!

In addition, in early correspondence with the assigned planner, Mr. Gubbens and Ms. Han were promised that the applicants would be required to fully expand the first floor before the City would even consider a variance for a second-floor addition. It does not appear, however, that such a policy was meaningfully applied in this case.

Every substandard lot presents special circumstances and so under that rationale, every substandard lot should be granted a variance to allow construction not in conformance with existing law. However, other than the substandard lot, which should not in and of itself be a factor, and the heritage trees which could be addressed in the same manner as they were addressed in the three most recent projects closest to 840 Kipling at 441, 458 and 400 Channing, there are really no other extraordinary circumstances that would justify the granting of a variance in this matter.

The January 15, 2020 decision letter states:

The purpose of the granting of a variance, as outlined in PAMC Section 18.76.030(a) is to provide a way to grant relief when strict application of the zoning regulation would subject development of a site to substantial hardships, constraints, or practical difficulties that do not normally arise on other sites in the vicinity and same zoning district.

The term “and same zoning district” in this case must be used when comparing to other substandard lots, not to other standard lots. Of course, substandard lots have their limitations, that is why the designation exists and that is why certain types of development, such as the development being proposed here, are prohibited. The constraints imposed by zoning rules for substandard lots cannot be used as the argument to ignore them. Allowing that argument would render any zoning regulations irrelevant.
The Findings also claim that the granting of the application does not constitute a grant of special privilege. As noted above, however, many projects have been approved that clearly have structures built well within the TPZ and clearly structures, including mostly neighboring structures, were built in the TPZ of the trees on this property. Back in 2013, the City allowed the property owners of 840 Kipling to trench and cut roots within feet of the trees. There is, however, no finding that root cutting would even be required were the entire addition to be constructed in the rear yard. In addition, the initial historical study, which will be discussed in more detail below, opposed the project as submitted and recommended a rear one-and-one-half story addition to reduce the overall impact that the proposed construction would have on the historical aspects of the home. There appears to have been no effort at all to study that option.

The granting of a variance should require extraordinary circumstances. In an effort to see what has been done in similar situations, a search on the City of Palo Alto’s Building Eye application was done for the term “variance.” The search, which goes back to January 1, 2014 revealed only nine instances in which the term was even used and after looking at the details of each of these nine instances there were none in which a variance was granted in a similar situation. In fact, in almost all of these instances the variance application was denied and none of them presented facts as contrary to the existing Municipal Code as those presented in this instance. Thus, it appears that this application was, for some reason, treated more favorably than most others. That should not happen.

In this case the owners of 840 Kipling and the City Staff appear to have gone out of their way to use the TPZ as the very reason to justify a second story addition. In addition, as noted above, the property owners were never required to do a fuller study and better explore a ground-floor only addition. Allowing the second story addition based on the TPZ would be treating this property different from the treatment afforded to others. One need only look only at the nearest three other projects at 441, 458 and 400 Channing where the construction was allowed deep into many TPZs. The fact is that even if the full 673 square foot addition that the 840 Kipling property owners desire is built on the ground floor, the intrusion into the TPZ would be significantly less than what was allowed at 400 Channing, 458 Channing and 441 Channing. Also conveniently ignored are the existing deck and back yard hard surfaces that could readily be for a rearward expansion with no impact on the trees.

Turning next to the review by the HRB which is referenced in the Findings, the original March 19, 2019 report the City commissioned from Page & Turnbull specifically recommended against allowing the proposed development:

_Overall, the project as currently designed does not appear to be in compliance with the Secretary of the Interior’s Standards for Rehabilitation._

**RECOMMENDATIONS**
This section includes recommendations to better comply with the Secretary of the Interior’s Standards for Rehabilitation:

- Consider a rear, one-and-a-half story addition, rather than a second story addition, which would have a more minimal impact on the historic roofline and form of the residence.

When compared to the second report which recommended approval, it is readily clear that there were very few changes. Moreover, as noted above, alternatives such as a rear one-and-one-half story addition were completely disregarded. In fact, all that changed were a few windows and a few exterior treatments, but when the plans for the proposed house with the new addition is compared to the existing house, it seems that there was a significant disregard for the fact that the structure has historic significance.

Additionally problematic, is the fact that the property owners were represented at the HRB by its chair. While it appears that he obtained a letter saying that the Fair Political Practices Act did not prohibit him from representing the property owner, the fact is that it presents the appearance of unfair practice. I spent four years as a Planning Commissioner and then nine years as a member of the Foster City City Council with two terms as mayor. Much like you, I took the required ethics programs and from those I remember, and hope you do as well, that what is legal is not necessarily what is ethical. Appearance of impropriety can often be as problematic as actual impropriety.

In this case, Mr. Bernstein first sat as the Chair of an HRB meeting and then stepped down to recuse himself to represent the property owners in a hearing before the very same body. In fact, the original minutes of the meeting refer to him as Chair Bernstein even though he had recused himself. Later, the minutes were changed to refer to him as Mr. Bernstein. If City Staff was confused as to his role, imagine how the public and other interested parties must have felt. While perhaps this is not the forum to address this issue, it seems to be an issue that should be addressed as the public and residents have a right to have an unbiased government and for their processes and hearings to appear unbiased as well.

Finally, 840 Kipling is located in the SOFA I CAP, and so that too is relevant to the Findings and is therefore addressed therein. Having reviewed the SOFA I CAP Report myself it appears to me that the proposed addition at 840 Kipling does not comply with the policies established. The Report, in Chapter II states:

“The livability and the walkability of the neighborhood will be preserved and enhanced through the provision of open space with a proposed neighborhood park, through the maintenance of pedestrian scale urban design improvements, the calming of traffic on area streets, and the creation of new housing for a variety of household types. The area’s traditional grid street pattern, its historical buildings, its mature tree canopy, and its mix of land uses will also be preserved.”
“Land vacated by PAMF adjacent to existing lower density residential uses on Channing Avenue between Waverley and Kipling Street will be developed with detached single family homes on small lots (typically 5,000 square feet) consistent with the existing development pattern of these neighborhoods. The Plan allows increased floor area ratios (FAR) as incentives to construct second units as accessory cottages in the rear of the property, usually beside or above the garage, or attached second units as found in many older Palo Alto neighborhoods. These second units will expand the range of available housing types and will increase the total number of housing units in the area.”

Housing and a mix of housing types seems a common theme of the Report. “The Plan has also addressed the City’s desire to create housing for a variety of users beyond the traditional single family neighborhood. This interest has been furthered by the desire to maintain compatibility of land uses and density with the surroundings and has resulted in the plan facilitating a range of housing types. These include moderately-sized detached single family homes on small lots with or without rear cottages, multiple-family attached apartments and/or condominiums, and rental housing units in mixed use projects, along with provisions for the inclusion of special housing types such as affordable housing, senior housing, or co-housing.” Chapter III(C) (emphasis added). This is specifically addressed in Policy H-2 which calls for lower density housing in the area where 840 Kipling is located with increased density closer to downtown and Alma Street.

This policy of preserving neighborhoods and having a broad variety of residential unit types would be violated by allowing the variance requested by the applicant. One need not look very far to see that small detached “starter homes” like what is currently located at 840 Kipling are being developed into larger, more expensive and less affordable homes at an alarming rate. Allowing the type of development requested by the variance application in this case will only serve to reduce the pool of “starter homes” in Palo Alto by yet one more, making it difficult, if not impossible for young people and young families to own anything other than a condominium. A pool of “starter homes” is essential for diversity and opportunity and from my reading of the SOFA I CAP Report, a clear and strong policy adopted by the City of Palo Alto. At the very least that issue should be evaluated, and a determination made as to whether yet one more overbuilt lot is a better community option than stabilizing the already limited pool of “starter homes.”

As stated above, the granting of a variance should require exceptional circumstances. It seems from the initial application itself that the basis for the addition consisted of circumstances personal to the property owners, which is circumstances are under the Palo Alto Municipal Code expressly excluded from consideration. It also appears from the January 15, 2020 that the primary factor relied up by City Staff was the Tree Protection Zone. As discussed above in detail, further study could have an should have been done. In addition, the City has been inconsistent in applying the TPZ ordinance, allowing a
number of developments in the neighborhood to be built well into the TPZ. At the very least, credible further study should be done.

The January 15, 2020 decision letter also seems to disregard the problems and potential solutions offered in the first Page & Turnbull letter, including the possibility of a one-and-one-half story rear yard addition. Clearly those options should be explored before a variance is granted.

In general, we see nothing that would support the granting of a variance in this instance. There is nothing exceptional about the particular lot or situation and the neighborhood is already much denser than current zoning requirements would allow. Making it even more dense by granting a variance for no compelling reason is, in my opinion, poor policy and legally it fails to meet the applicable standards set forth in the Palo Alto Municipal Code. It also makes it problematic for other residents who select particular properties to purchase understanding what can and what cannot be built on adjacent lots. As shown on the very first page of the Plans submitted by the property owners, this property is being built out to the maximum allowed and obtaining a variance to do so. Allowing what is prohibited by the current law be built by the granting of a variance, undermines the expectations of adjacent property owners and creates problems where none would exist by the simple application of the existing laws. These laws have a reason and there should therefore be compelling reasons to ignore them. That the property owners are nice people and would like a large home to care for their growing family is, for better or worse, not a compelling reason and certainly no reason to give them a variance to do so.

In summary:

- 840 Kipling is a substandard lot with only one habitable story allowed under the Palo Alto Municipal Code.
- The existing zoning regulations allow the owners of 840 Kipling to expand on the ground floor without having to build a second story.
- 840 Kipling does not suffer substantial hardships, constraints, or practical difficulties that do not normally arise on other substandard sites in the vicinity and same zoning district that should allow a variance for a second story addition.
- The owners of 840 Kipling clearly describe their desire for a variance as driven entirely by personal circumstances. Palo Alto Municipal Code § 18.76.030(c) (1) (A) expressly excludes such personal circumstances from being considered.
- Allowing a second story addition to 840 Kipling would be injurious to the value and enjoyment of 441 Channing.
- 840 Kipling has only a 3.5 side yard setback with 836 Kipling. 836 Kipling Kipling has only a 2.5 ft side yard setback with 840 Kipling and no side yard setback at all on the other side. 840 and 836 Kipling together have only 6 ft of the required total 18 ft side setback. From a street side perspective this section of Kipling is already much denser than
allowed by current zoning. Allowing a second story would increase the density even further directly in conflict with the R-2, Low Density Residential zoning designation.

- The City’s commissioned historic review by Page & Turnbull specifically recommended against allowing the proposed development recommending instead a rear one-and-one-half story addition. There is no evidence that this credible option was seriously considered.
- There are significant ethical concerns with respect to the HRB review given that its chair was representing the owners of 840 Kipling at the same meeting at which he presided.
- Adding a rear one-and-half story addition to the “allowable” square footage would leave a significant TPZ. In fact, the TPZ would still be much more than was left for all of the protected oak and redwood trees at the 3 nearest and most recent developments at 400, 441, at 458 Channing Ave.
- The project history shows the owners shifted to a strategy using the TPZ as the reason to justify a variance allowing a second story addition. However, back in 2013 these same owners dug a trench and cut major roots of the two redwood trees much closer to the trees that they would be with a ground floor addition. No attempt was made to see if the trees could be protected with a ground floor only addition. That should have been required as it would be much less intrusive and much more consistent with the applicable zoning than granting a variance.
- A rearward addition on the ground floor is readily possible in ways that do not or only minimally affect the trees. An above ground suspension should, for instance, be considered. Such a construction method was used for instance at 458 Channing.
- The property owners of 840 Kipling were not but should have been asked to seriously consider obvious alternatives to a second story addition. At the very least, the project should be returned to staff and the owners to undertake such a study.
- The owners of 840 Kipling understood the limitations of their substandard lot and accordingly purchased 840 Kipling at the lower price these properties sell for. Mr. Gubbens and Ms. Han trusted they understood what could and could not be built on 840 Kipling and accordingly paid a higher price for the enjoyment they believed was guaranteed with their property. Granting a variance here directly undermines the very reasons zoning regulations exist and makes it impossible for future property owners who select particular properties to purchase understanding what can and what cannot be built on adjacent lots.

We respectfully ask that the variance for a second story addition be denied.

Thank you for reading and considering our concerns,

Charles S. Bronitsky
Attorney at Law
3. PUBLIC HEARING / QUASI-JUDICIAL. 840 Kipling Street [18PLN-00185]: Recommendation on a Variance to allow (1) a Second-Story Addition to a Historic Home on a Substandard, Irregular Lot, and (2) an Extension of a Noncomplying Wall That Encroaches Into a Side Setback. Environmental Assessment: Exempt from CEQA in Accordance with CEQA Guidelines Section 15301 (Additions to Existing Structure). Zoning District: R-2 (Two Family Residential). For More Information Contact the Project Planner Christy Fong at cfong@m-group.us

Chair Templeton: Ok we’re going to move onto Item Three and there’s a lot of moving parts in this item. I believe the first step is for us to deal is disclosures. So, we’ll go down the line start with Commissioner Riggs for any contacts on these matters including meetings, conversations with individuals, site visits, mailings or presentations where substantial factual information was obtained by the Commissioner. Will disclose any contact in which the Commissioner learned new and pertinent information that’s not part of the public record, explain the nature of the contact and a substance of the information learned. Contacts and receiving of information prior to the PTC is not by itself grounds for disqualification unless they have affected your ability to make an impartial decision. So, you may have engaged with the participants in this discussion but it may not be disqualifying so just speak to your engagement. Huh?
Commissioner Riggs: Yeah so, the applicant called me to try to schedule a visit but I declined.

Commissioner Lauing: I met with the applicant of 840 Kipling and reviewed plans and took a site tour.

Vice-Chair Roohparvar: The applicant emailed me to schedule a site visit, I met with them, reviewed plans, took a tour. I learned information about trenching on the two-neighbor side that impacted the tree growth but I do believe that that’s included on Sheet T.2 but I did want to point that out.

Chair Templeton: Thank you. I have not had any contact with the participants in this hearing.

Commissioner Hechtman: I met with the applicants at 840 Kipling, had them explain to me some of the information that’s in the Staff report and the associated documents. So that’s already part of the record and did the site with them and looked at a couple of trees in the neighborhood that are referenced in the site report... sorry in the record.

Commissioner Summa: I also met with the applicant at 840 Kipling, at their home, and looked at the plans and associated documents and did a site tour.

Chair Templeton: Thank you and brief hold while we are seeking our last input. Alright sorry about that Commissioner Alcheck you’re on for disclosures.
**Commissioner Alcheck:** I met with the I guess Reyna family if I’m pronouncing it correctly of 840 Kipling yesterday. They walked me through many of the comments they made in the letters. I don’t believe they shared any information with me that wasn’t already in the Packet and I asked them that same question and they confirmed that. So other than that meeting I have nothing else to disclose.

**Chair Templeton:** Great thank you and just to check in with our legal team, do we feel comfortable proceeding with no recusals?

**Ms. Sandra Lee, Assistant City Attorney:** Yes, Madam Chair.

**Chair Templeton:** Thank you very much. Alright so oh I have the Order of Operations here, please hold. Vice-Chair to the rescue, thank you so much. Alright so the way we’re going to proceed through this is we will start with a Staff report and then we’ll hear from the hearing requester for 15-minutes and the applicant for 15-minutes. That’s... after that, we will do public comment and I have the cards here but if there’s anyone who has not filled out a public comment card please hand them into that box behind Ms. French. Alright, then the hearing requester and applicant will each have a 3-minute rebuttal after public comment in case there’s topics that come up that you’d like to address and then the Commission will discuss, alright? Thank you very much.
Ms. Rachael Tanner, Assistant Director of Planning: So, Commissioners I want to introduce Christy Fong who will be doing our Staff report this evening. Christy has over 9-years of planning experience including subdivisions, long-range planning, current planning and she began her planning career in Canada but we are very happy to have her working on this project. As you have seen the project history, this project has been underway for some time and so we are happy we are bringing it before you for its next phase. I'll hand it over to Christy, thank you.

Ms. Christy Fong, Planner: Thank you for the introduction and good evening Board Members [note – Commissioners]. I’m the project planner for the proposed project located at 840 Kipling Street.

So just to give you some history on the project, the project is presented at PTC tonight in respond to a hearing request made by a neighbor residing at 441 Channing Avenue. This project involves an Individual Review and a Variance Application at 840 Kipling Street when the project was first submitted in 2018. Since this property is a historic resource the Historic Review Board reviewed this project on February and December of last year for its consistency with the Secretary of Interior Standard. Upon review, the Director of Planning and Development Services determined that the project is in conformance with the applicable zoning requirements and tentatively approved the project which is the Individual Review and the Variance applications on January 15 of this year. A Timely Hearing request was received from the neighbors at 441 Channing Avenue on the Tentative Decision. PTC is the reviewing body for the Variance after
the Director has issued a Tentative Decision, your recommendations will be forward to the City Council for final decision.

For tonight’s agenda, the PTC will review the project, conduct a public hearing, receive public testimony, and provide recommendation to City Council on the Variance request for 840 Kipling Street. The Variance Request includes a second story addition to a historic resource on a substandard, irregular R-2 zoned lot, a 6-foot extension to a non-complying wall which is currently encroaching 2 ½-feet into the required 6-foot required side yard setback on the West elevation.

Just to give you some information on the context of where the project site is. 840 Kipling Street is located that the southwest corner of Kipling Street and Channing Avenue in the SOFA South of Forest Area Coordinated Area Plan Phase I, SOFA CAP I. The project site is zoned as R-2, two-family residential surround by single-family, low density and multi-family residential uses. The area north and rest of the site are zoned R-2 and the area east to the site is zoned has DHS, Detached Housing on Small Lot. It is a special zoning district created by SOFA I. The hearing requester is locating at 441 Channing which is on the left side of the subject property. 836 Kipling is a substandard lot with a smaller, one-story home located on the left side of the subject property.

The project is located on a non-rectangular shape substandard lot. This lot is considered substandard because it does not meet the minimum lot requirement in the R-2 Zone District.
The subject area has a width of 39.5-feet where the minimum width for a regular lot in the R-2 Zone District is 50-feet. The lot area for this project site is 4,893-square feet where the minimum lot requirement for a standard lot in an R-2 Zone District 4,980-square feet.

The existing property has 1,192-square feet single-family residences with a one-car detached garage at the back. The main residence is a single-story bungalow with an attic that was constructed in 1912. This residence was previously determined by the Historic Review Board as a contributing residence as it retained historic merit.

So, this diagram is to provide you some information on the project. The project involves an Individual Review and Variance application for 184-square feet ground floor additions at the rear part of the residence, 397-square feet of partial basement beneath the rear addition, and 489-square feet of second-floor addition. The project site has two protected trees, they are Redwood, at the rear property line at the back which shares a Tree Protection Zone of 35-feet in radius from the tree location. The Tree Protection Zone limits part of the buildable area by the rear side of the property. The need to maintain these Tree Protection Zone from further intrusion qualifies this project site as unique and is eligible to request for a Variance.

The PTC review for this project is the two proposed Variance requests which included the height and the side yard setback encroachment. There are zoning regulations restricting development on substandard lot with one habitable floor at a maximum height of 17-feet. The
The proposed project includes a second story addition and the proposed height would be 26-feet 8-inches that would require a height Variance.

The existing main residence is non-complying facility with a wall on the west elevation that is located 2 ½-feet into the required side yard setback. The project would extend approximately 6-feet to the rear part of the home which would not be visible from the street. This request would normally fit within the specific limit set forth in the Home Improvement Exemption that would allow a legal, nonconforming wall building that is located 3 ½-feet from the side property line to be extended to a quarter of the length of the existing wall or 10-feet horizontal, whichever is lesser. To clarify on the point that we state in the Staff report at Packet Page 18 because this project would alter just above 25 percent of the existing wall and it becomes ineligible to request for a Home Improvement Exception.

As noted above the subject property presents limitations for ground for expansion. The PTC can review the project, assess the property conditions, and determine whether the project would meet the four findings for granting of a Variance. This is the generic findings that is in our code right now. Proposed finding on a tentative decision is presented in Packet Page 46 in the Staff report. In summary, Staff found that the 35-feet Tree Protection Zone for the two protected Redwood trees on-site would restrict the subject property to expand on the ground floor when such expansion is allowed in the R-2 Zone District for a substandard lot. The project with the granting of the request height side setback Variance would not affect the project’s compliance with other R-2 Zone Development Standards. The project meets the Individual Review
Guidelines and also meets the Secretary of Interior Standards for rehabilitation. The project is generally consistent with the goal and policy identified in the Comprehensive Plan and in SOFA CAP I. The proposed second story addition would be built within the required building envelope and the proposed extension to the first-floor wall to an existing noncomplying wall is appropriate in scale and would not reduce the current side setback. At last, the proposed additions were not found detrimental and would not pose potential risks to public health, safety, general welfare, or convenience. PTC can assess whether the current project would meet the four findings for Variance and Staff would forward your recommendation to City Council on Consent Calendar.

The hearing requesters have also requested for Director’s Hearing for the Individual Review application which is scheduled for March 5, 2020. If the Director hearing decision is appealed the Individual Review application will be placed on the same Consent Calendar with the Variance and that concludes Staff’s presentation.

Chair Templeton: Thank you very much. Alright so let’s move onto the hearing requester and Vice-Chair please set for 15-minutes.

Ms. Tanner: Did you have a presentation?

Mr. Charlie Bronitsky: Pardon?
Ms. Tanner: Did you have a presentation?

Ms. Fong: No.

Mr. Bronitsky: No, I have... unfortunately, every thing’s printed but I think you all have it. It’s that. So, pardon me for starting so rudely but Commissioner... excuse me, Chair Templeton and Commissioners, good evening. My name is Charlie Bronitsky and I’m here today representing Alexander Gubbens and Karen Han, they own 441 Channing which is right next door to 840 Kipling. My apology that is paper, I usually don’t do paper but I just had a minor technology explosion today, so I hope you’ll forgive me for that.

What we’re going to talk about today really is whether or not a Variance should be granted to build a second story at 840 Kipling. And the critical thing that I’m going ask you to remember is that Variance are rare and exceptional.

My background, real estate land-use lawyer for 33-years, I live in Foster City, 4-years on its Planning Commission, 9-years on its City Council. I think in all those years and all those capacities I’ve done six Variance requests. And the reason that Variances are unusual and exceptional is because you’re asking someone to make an exception to the law. So, the law, in this case, would say that the property owner at 840 Kipling cannot build a second story and why is that, because it’s a substandard lot. There’s no dispute, the applicant agrees with that, the City agrees with that, we agree with that. And so, the issue is whether or not there’s something...
about this particular property that allows for a Variance and it should be exceptional because otherwise, the reliance on the rule of law dissolves into chaos. And what I’m going to talk about today is that there is no... there are no... excuse me, there is nothing exceptional that would allow for the granting of a variance in this case.

So, let’s, if you wouldn’t mind, let’s turn to the second page of the... this is from... your Packet 20... Page 12 and it talks about... mostly about things we agree with. And on the first section, it says that because the lot is substandard the law in Palo Alto is that development is limited to one habitable floor with a maximum height of 17-feet and as we saw the house is already 18-feet. The next paragraph talks about extending an existing nonconforming wall but what I mostly want to draw your attention to is the third paragraph here which Staff says there’s really two reasons to grant a Variance. One is the tree in the rear yard and the need for a 35-foot Tree Protection Zone and the other is the odd shape of the lot.

I’d also like to note that there’s kind of an anomaly here in that and I’ll show you the numbers as I go through this. If the law were just applied the largest house that could be built on that would be a little over 1,900-square feet but if you then grant a Variance there’s an additional several hundred square feet that’s allowed. So not only is this lot going to... the proposal is to build this lot to a second-story which isn’t allowed, but to a great extent than what would be allowed if the law as applied and it was only limited to 1,900-feet. So, I know on the bottom is says 64 percent but that’s my hopefully only other mistake. It should be 57 percent. I think I corrected it in the other areas.
So as Staff pointed out this project went through the Historic Resources Board and the City retained Page and Turnbull who prepared the initial report. And I have the first and last page are the next two pages and if you turn to the second page I have here it talks about Page and Turnbull’s recommendation to consider a rear 1 ½-story addition rather than a second-story addition. And I’ve been graciously been given access to pretty much everything that was submitted to the City by the applicant and there was absolutely no attempt to do that. Instead, the applicant continued to go forward wanting to build a second-story on this lot where second-stories are not permitted.

So, I’m going to talk about the two issues, the first if the Tree Protection Zone. So, if you turn to the next page, this is I believe also part of the Staff report, you can see that the Tree Protection Zone of 35-feet has already been violated in numerous times. Including once by the applicant themselves when they not only dug trenches but cut roots and as I’m about to show you there is some significant disagreement among various arborists as to what the appropriate Tree Protection Zone should be here to actually protect the tree. And what concerned me was that there was no request by the City and no attempt by the applicant to actually do a little bit of digging and see where the roots are. Could you extend this property out a little bit more than 35-feet and not harm the tree? We really don’t know that. All that was ultimately applied was a formula. So, turning to the next page, it’s the Kielty Arborist letter of May 27th and on the second page of that letter in the highlighted red box, Kielty believes 25-feet is sufficient to protect the tree. And then on the third page of that letter Kielty goes on to talk about the
protentional for root cutting, the potential for trenching [unintelligible] and or excuse me, excavation. A number of alternatives that could have been but weren’t studied that would have made a Variance unnecessary. So, for reasons that I’m not privy to a second arborist report was done, if you just turn two pages in it’s the August 14, 2018 letter from Dave Doctor. And back on August 14, 2018, Mr. Doctor concludes that the Tree Protection Zone ought to be 42-feet but again it’s not very clear whether any studies where done, any excavation was done, any investigation was done into where the actual roots of this tree are located. And then for some reason just a little under a year later there’s yet another letter, it’s the June 23rd letter, also from Mr. Doctor and he now for reasons that aren’t really clearly explained in the letter goes from 42-feet to 35-feet. So exactly what’s needed here isn’t really supported by any, as I can see it, valid arborist report. They’re all disagreeing with one another and no one’s bothered to go into the yard and actually find out. When the applicant needed to do some trenching, at that point it was ok to cut roots of the tree but apparently, in this instance, it’s not even appropriate to investigate. And I would ask this Commission to at the very least send them back to do further investigation because it might make it possible that the Tree Protection Zone can be shortened and the house expanded just on the first floor as the law provides and there would be no need for a Variance.

I also heard that a number of you went out there and I hope that you took a walk along the 400 block of Channing because you’ll see that there are at least a half of dozen trees that I saw today that are clearly protected trees, Redwoods and Oaks, and clearly within what should be calculated as the Tree Protection Zone. In fact, right across the street at 400 Channing there’s
two new houses and there’s... the next document I have here is the plan for that. And as you can see from the plan for 400 Channing in these two new homes these protected trees are vertically challenged and I’m not sure that I could lay myself down between the truck of the tree and the house. And right after that, you’ll see in my package is a photograph of just how close that tree is and really if you go out there it looks even closer. So, this is a pretty recent project, these houses are just now being put up for sale. So, from a community basis and you represent the community here, why the 35-foot Tree Protection Zone that requires... that’s there... then gives them a basis for a Variance on one side of the street and yet allow construction of two homes on what had formally been a lot with one home on it within 5 to 10-feet of protected trees? My client’s own property, 441, there’s an Oak in the front. That Oak if you went ten times the diameter is to close to the house. There’s... I think it’s 465 or 456, I think it’s 4... it’s got to be 456 because it's across the street. There’s a house there also there’s I think both a Redwood and an Oak and both of those are well within what would be the calculated amount.

So, it seems to me that as to the Tree Protection Zone, further study should have been done or there should have been some consideration of allowing for a Variance from just the technical calculation. So, you can have up to the 1,900 and so square feet on that first floor and again, no Variance is required.

So, Staff showed us kind of the generic code for Variances and the next page I have here is just some comments I have on that as to just how they apply in this case. So, what’s shown as
Attachment D

Attachment C, it’s also part of your packages Page 22, and among the things that you’re not supposed to consider in connection with granting a Variance are the personal circumstances or the property owner. And if you turn to the very next page you’ll see a statement from the property owner when they first got started on trying to get this Variance basically saying they needed it because they had a growing family. I understand that I started out the first time shortly after I got married at a condo in Daily City and we had a child and moved to a house in San Mateo. And our family continued to grow and we moved to a bigger house in Foster City. So, I understand that but this house has been on a substandard lot since long before the current owners have it. It’s had those restrictions on it to not build a second-story for quite some time and so there are alternatives if you’re personal circumstances require that you have a larger home but among those is not granting a Variance under the Palo Alto Municipal Code.

The other thing is B, changes in the size or shape of the subject property made by the property owner. So, I mean technically it’s not a change in the size or the shape of the property but the decision as shown in the Tree Protection Plan diagram to have trenched and cut roots is something that they chose to do which ultimately impacts where we are today. So, if they didn’t do that perhaps the Tree Protection Zone wouldn’t need to be as large as it is, could be investigated further but again, they chose to take action and there appears to be no consequences to that.

Again, the granting of the application shall not affect substantial requirements where there are regulations or constitute a grant of special privileges. Like I said and I think if you look at the
next to last page, it was Attachment B but it’s the next to the last page of what I have, you’ll see that if this was a single-story it would be limited 1,957.2-square feet but the proposed development is going to be 2,201.4-square feet. So as a result of a Variance they get to burden... overburden that lot by an additional 57 percent beyond what they could build if they just were required to follow the law. So, if they’re required to follow the law they could build about 420 or 440-square feet but they get to build 600 and some square feet on that very same lot.

I see I got a little yellow light so I’m going to make the following points quickly. There’s a... this... so it’s showing you the lot layout. Again, the lot layout doesn’t constrict development, if it was a square lot it would have actually fewer square feet and therefore you could put a smaller home on it. Nothing about the slightly odd shape of this lot is actually a constraint. It’s actually an advantage because it gives you additional square footage. Which gets me again to my point that’s shown in the map, Building Eyes, one of your systems. I don’t know if your... I assume you’re familiar with it but basically you can go on there and look at all the things the Planning Staff has done. Since 2014... am I done?

Chair Templeton: Yes, your 15-minutes have passed.

Mr. Bronitsky: Ok.

Chair Templeton: You’ll have more time during rebuttal if anything comes up.
Mr. Bronitsky: Understood, thank you.

Chair Templeton: Thank you. Alright and we’re ready for applicant, thank you. Alright please begin.

Mr. Martin Bernstein: Thank you, Chair Templeton. I’m Martin Bernstein, architect for Steve and Aysen, I’m also a member of the Palo Alto Historic Resources Board, and I just wanted to for members to the public to know that I’ve gotten authorization from the California Fair Pollical Practice Commission that as the architect and without any employees, that the state of California allows me to present this project in front of the Commission. The purpose for that is twofold one, the state of California Fair Pollical Practice Commission doesn’t expect a homeowner to know the technical aspects of building constructions or processes nor does the state of California expect homeowners to be able to respond to question regarding technical aspects from the Commission. So that’s why I have authorization to present this to you, thank you.

Two simple statements one, during the course of the project we received excellent counsel from the Historic Preservation consultant for the City of Palo Alto, Page and Turnbull and we’ve incorporated all of their recommendations into their report into our project. And then also we’ve received good counsel from the City of Palo Alto’s Individual Review consultant Mammarella and we’ve incorporated all of his comments into that project.
So, my... just my three simple statements are with all these recommendations that have been incorporated into the project, Historic Review has been approved by the Planning Department, the Individual Review process has been approved the Planning Department and the Variance has been approved by the Planning Department. So now I’d like to introduce Mr. Reyna, the property owner, to continue. Thank you.

Mr. Steven Reyna: Chair Templeton, Commissioners, good evening. Chairperson Roohparvar [note -Vice-Chair] could you give me the proverbial 2-minute warning?

Vice-Chair Roohparvar: Yes.

Mr. Reyna: Ok thank you. Good evening, my name is Steve Reyna, my wife Aysen Kutlu and I are the owners of 840 Kipling. We’re here this evening to present our project to you which includes a Variance application for a modest second story addition to our house. Our application has already received as Mr. Bernstein had said, tentative approval for Variance, Individual Review, and Historic Review from the Director of Planning.

From the beginning, our goal has been a modest addition to our historic house which is compatible with the neighborhood and maintains and expands on its historic character. Per R-2 zoning we have 673-square feet of unused FAR and due to the new unique circumstances of our
irregular lot and restrictions on how we can place the square footage, we needed to apply for a second-story Variance.

Alright so some of the unique properties of the lot itself, it is irregular. As you can see we have... we’re not a rectangle, we’re like a box on a box. One of the... this lot and location of the associated driveway has existed since before 1924 and it’s documented on a 1924 sandboard map. Since the house was building in 1912 the lot is probably 108-years old as you see it. The irregular lot shape and the driveway access along the left side significantly constrains how we can utilize our buildable area. Any additions towards the rear are confined within a very narrow width exactly behind the house and the lot does however had adequate Daylight Plane to support our second story addition.

Here’s a quick picture of the driveway with the easement itself show on the right-hand side and the 1 ½-foot extra land for the exclusive and... exclusive use Variance in perpetuity. Sorry. There’s always... wait a minute. Pardon me.

Another unique condition of our property is that is effectively a conforming lot. The lot we fully own which is shown in light blue up there is 4,893 so we are only 87-square feet less than a conforming lot. And with that exclusive use easement there which is 1 ½-feet by 75, that’s another 112-square foot, our total useable land is 5,005-square feet. We are effectively a conforming lot and as such we would not have needed a Variance for this project. We have an administrative problem with that but in terms of useable land, we effectively have 5,005-square
feet. I would add that the easement itself acts as a zoning function. It acts as additional side setback next to the house where it’s needed most to provide additional open space between us and the adjacent property. Now we go to the picture of the driveway and you can see the easement there and to the person on the street, it is indistinguishable from the property that we own. So, anybody standing on the street, this would look exactly like a conforming lot.

We talk again... we’re back to the Tree Protection Zone. You know about the trees, the two protected Redwoods in the back right there show with the green circles with a 35-foot TPZ. So, this TPZ is significantly impacted by the structures and the features around there. The dark black are the garage and the cottage next to us and whatnot and when you total up the total intrusion impact on the TPZ its 73 percent impacted. When Planning and Forestry allows up to a 25 percent intrusion. In addition to the structures and the driveway around it, the previous owner of the property behind us in this are up there, we found out that they had trenched along that fence line for their own irrigation and had installed root blocks. And that’s the left-right dash line there and the remaining 27 percent undistributed TPZ is shown in green. The areas essentially only what’s between the trees and the back of our house and in forward back direction and the driveway and essentially our property line on the right-hand side. Back in 2013, 2013 we became concerned about potential damage between our trees and the neighbor’s cottage at 836 Kipling on the right-hand side because of how close they were. We consulted with arborist Kevin Raftery who advised us to dig a trench and look for... look at what roots are there and we discovered significant roots going directly underneath the cottage. Under advisement from Kevin Raftery, we cut those roots going... we cut those roots to prevent
damage to the cottage and to preserve our Redwood trees. If we had not done that we would eventually have been forced to remove those trees because of the hazard they would cause to the cottage. We did not want to damage our neighbor’s cottage, we did not want to lose our Redwood tree which is a very real possibility because it happened to our neighbors. Our neighbors at 836 Kipling, the one-story next to us, use to have, use to have a very large and healthy Redwood tree whose diameter is substantially bigger than ours. There’s a picture on the left as it uses to exist and then there’s the... you can see the picture of where it is referenced to the back of the house. They loved this tree, we loved it too but because of ongoing issues with the tree and the house, they felt it necessary to call in an arborist to say what’s going on with this? And the arborist told them this house is destroying your foundation... I’m sorry, this tree is destroying your foundation, this tree is pushing in on your house. Reluctantly to perverse the house they removed the tree and that’s what happened. We all lost a beautiful large Redwood tree, we don’t want this to happen to our trees, we don’t want this to happen to our house.

Turning now to the how the project would present itself to the neighborhood. We have an expert of the streetscape from the plan set. As you can see the proposed second story addition is centered on the house and significantly imbedded into the roof. In fact, more than 50 percent of the second story is embedded in the existing house structure. So, this can reasonable be called a 1 ½-story house or addition. It’s a modest addition, it fits well within the neighborhood, it’s compatible in size, and even smaller than some of the nearby R-2 homes off to the right and is much smaller in height and massing than the DHS home on the far left, 441 Channing. One
point I’d like to highlight here is that the primary concern that the City Council has with second-story additions on substandard lots is the violation of Daylight Planes and setbacks. Our lot, almost a conforming lot by 87-square feet we’re missing it, has sufficient Daylight Plane to support our addition. And the second story addition fits entirely within the R-2 Daylight Plane, including the eaves.

Here’s a brief chart that shows the comparison of living space between the different lots along the streetscape. Living space, in this case, is all the built space above ground, not including garages. So, as you can see, first of all including our proposal, almost all the houses on that street are two-story already and that the R-2 houses range from 38 to 40 percent FAR. The DHS house on the far left, 441 Channing, .58 FAR.

Now the submission from the appellant is actually fairly vague about what they are opposed... why they are opposing our application. On the first page, second paragraph of their written submission from the beginning they write “whereas a second story requires a Variance and would be injurious of the value and enjoyment of the Gubbens/Han home. Now the submission doesn’t explain this statement but the owners have been very focused and very consistent over the last 4-years about they are concerned about. Up there are quotes, one is an email directly to us, the other three are in your Packet, these are emails to the City. The most recent one was on December 2nd of 2019, that was only 3-months ago. I won’t read all of this but I’ve added emphasis to the key points. Its views from their second-story windows across our property and the most clear expression is the third bullet down, July 2018, which starts out “I realize that the
second-floor addition... that with the second-floor addition we would not be able to see sunsets anymore.” And jumping down to the last sentence “with some very nice views over 840 Kipling, those would disappear.” The most... they have been consistently reiterating this primary concern over the years. However, I’d like to bring some more historic context into the views of owners that the owners of 441 Channing are concerned about. Above is a dictation of the condition of the property as they bought it in 2007. There were a row of Canary Island Pine Tree, 40-foot plus height along the common property line. These trees existed prior to the construction of their home and were designated protected trees by the then Director of Planning Ed Goff back in 2001 as a part of the SOFA I process. In 2009 Mr. Gubbens approached us asking if he could remove those and replace them with new screening trees because there were maintenance issues for him.

Vice-Chair Roohparvar: Two minutes.

Mr. Reyna: Aw, thank you. Had the original... sorry. They became a maintenance issue for us, these trees were removed in 2009 when the owners 441 Channing were first able to enjoy the views across our property. Here’s a Google street view, on the top you can see the trees as it existed in 2008; very substantial. We are very heavily shaded there. On the bottom left, 2-years after the trees it’s... there’s nothing there and in May of last year, you can see that the screening trees are still not there. So, what is the appellant asking for? The owners of 441 Channing are asking the City to deny our second story Variance request in order to protect their views across our property. A view they created when they removed the tall Canary Island Pine
screen trees between our properties. The remedy being requested is for the City to violate its own Tree Protection Code to force the addition onto the ground floor, jeopardizing the trees as well as the future structural integrity of the house. I’d like to emphasize that even without the screening trees, there is no significant impact of our second story addition to their house. We fully fit within the Daylight Plane and their second story is 48-feet away from our second story. And if owners of 441 Channing are suffering an injurious loss of light from our second story addition, then anyone building a second story addition would be causing injurious loss to their neighbors even when adhering to the Daylight Plane.

I’ll skip that. I’ll skip that. This is a picture that shows the neighbor's support. Three adjacent neighbors including two of them here. Thank you.

Chair Templeton: Than you very much. Just a reminder you’ll have an opportunity to respond as well after public comment. Alright so public comment cards, I have some that were submitted earlier on. Have any additional cards been handed in Ms. French?

Ms. Tanner: No more cards.

Chair Templeton: No more cards, ok. We’re going to start with Charlie Bronitsky.

Mr. Bronitsky: (from the audience) Well, that’s me. I’m sorry.
Chair Templeton: Oh, yeah you don’t need to submit a card. Ok and then William Cane followed by Kevin Morris and Steven Chanin and we only have three so you can have 3-minutes each. Thank you.

Mr. William Cane:  My name is William Cane, I live at 832 Kipling, I’ve lived there since 1918...1995. The house was built in 1895 or so and when Steve Reyna first approached me, he’s kept me apprised of this project from the beginning, I was really pleased to discover that he was planning to just to enlarge and make an addition to his house and not to sell it because of his needs. Because it were sold, what I see driving around town is houses like his get torn down, being replaced by things that would not be nearly as consistent with the architect in our neighborhood. And so, I think this project is very deserving, it will add I think to the neighborhood, it will probably improve my property value, and I think it’s very modest. So, I hope you will approve it. Thank you.

Chair Templeton: Thank you very much for your comments, Mr. Cane. Kevin Morris.

Mr. Kevin Morris: Hi, good evening, my name’s Kevin Morris, I live at 836 Kipling Street, we bought our house in 2011 and I just want to say we’re very supportive of this project. We’re obviously the neighbors on the other side. Steve and Aysen invited us over several... almost... more than a year ago now to kind of be considerately show them the plans for the project. We’re fully in support of the project.
That large Redwood... we’re the owner that actually had the large Redwood tree in the back of our house that we had to take down. Again, there were some tears in our house because when we got... that tree was kind of the flagship of our backyard. If... you didn’t see, it’s the picture of the foundation where our foundation is literally was kind of bent by the tree. That tree was planted before we purchased the house and it was one of the reasons why we purchased the house in 2011 because it was just gorgeous. So obviously you have... trees are an issue in this hearing and actually, we were the ones that lost the tree. And I just wanted to kind of let the Commission know that we’re fully in support of the project. So, thank you very much.

**Chair Templeton:** Thank you very much for your comments, Mr. Morris. Steven Chanin.

**Mr. Steven Chanin:** So, I’m just... I’m 857 Waverley so on one of the two greenhouses on the Waverley side. Just wanted to say that I’m speaking in support of the project as well. My wife and I both understood what was going on a couple years ago and Steven came by and explained that they were trying to do this. And our take basically is that the whole community benefits by people who are investing and improving their house and the housing stock in the area. It keeps things well maintained, in good condition, it adds value to the neighborhood, it contributes taxes that pay for schools and services we all benefit from. So, we look at it as the community wins when people invest in improving their housing so anyway. You know and every change has impacts so right now we’re... our backyard faces the subject properties back yard and our master bedroom is on the backside of our house. So, we have a whole bunch of windows. Right now, if you look out those windows you don’t see anybody else because there’s walls and
garages and trees. The only thing that you’d really see would be the place where the second story addition is going to go and our takes is it’s nice that we had this privacy windfall for all these years since we moved in 2008 but it’s not like god granted us the right to have nobody to be able to see through our window ever. So, we have curtains if we’re going to run around butt naked after getting out of the shower, we’ll pull our curtains closed. But it’s not (interrupted)

Chair Templeton: Let’s keep it appropriate Mr. Chanin.

Mr. Chanin: Exactly but it’s... you got to look at it as if I were... I look at it as if I were on the other side and now we’re trying to change... build an addition on my house or renovate it, how would I feel about somebody blocking me because they don’t want to lose this privacy windfall that they’ve had any right to in the first place? They just benefited from and so I think you got to adapt and be reasonable. And so anyways so my take is you should approve the project and we’ll close our curtains and I think everybody will be better off.

Chair Templeton: Thank you very much for your comments, Mr. Chanin. At this time, we will close public comment and begin the rebuttal period. So, hearing requester will have 3-minutes followed by the applicant. Thank you.

Mr. Bronitsky: Thank you. The gentleman who just spoke is right, God didn’t grant anybody rights, the City of Palo Alto has a Municipal Code and that granted the rights. The right is a substandard lot, this is a substandard lot, it’s not near a standard lot, it’s a substandard lot. I’m
not near 6-feet, it’s a substandard lot. There’s really no argument about that. We’re sorry about the loss of someone’s else tree. Is this tree going to be lost if they expand further? We don’t know that. We had three different opinions from three different arborists. This isn’t simply just granting someone an addition, this is granting them a Variance. Meaning that we’re not going to require you to follow the law in this case. We’re going to say that there’s something unique about this and what did the Staff say? Two things, the Tree Protection Zone, and the odd shape of the lot. I showed you the odd shape of the lot really isn’t a constraint and the Tree Protection Zone. We prepared a little chart and I’ll... if someone could (interrupted)

Chair Templeton: Ms. French? Ms. French?

Mr. Bronitsky: I can come up there. (off mic) Here’s some extras. You could build the full... as you’ll see in this and we’re not architects or engineers. It’s just sort of trying to eyeball this. You’ll see in this chart that you could go to the full 1,900 and some odd square feet on the first floor and still be more than 30-feet away from this tree and no Variance would be necessary. And if there is a Variance necessary because of the Tree Protection Zone calculation then it should be granted for that purpose because again, just like everybody bought their home and enjoyed their views. So, did Alexander and Karen and they bought their home because the place next... in part because the place next door was on a substandard lot and no second story could ever be added to it. And they’ve enjoyed those views and really if you look at the reasons for a Variances, the very last one is an impact. That’s an impact. Again, this property could be expanded, it doesn’t necessarily have to be expanded to the full 1,900 and some odd feet. If
they’re concerned about staying out of the 35-foot zone they could expand to about 1,900-feet and you could still fit a significant expansion in that property. No Variance ever needs to be granted and the law should be applied.

Again, what we’re asking you to do is apply the law and not grant the Variance because the exceptional circumstances required for a Variance simply done exist in this instance. Thank you all very much.

Chair Templeton: Thank you very much for your comments. Applicant?

Mr. Reyna: Good evening, thank you. So, I guess it’s a collection of things to comment on. He talked about 25-feet, 35-feet, 42-feet from the arborist. The 25-foot was a typo and we could not get ahold of that arborist to correct it. The 42-feet was the recommending addition space because of the Redwood trees and he’s trying to deal with the... the arborist is recommending additional space to deal with the Redwood tree’s aggressive root growth tendencies. However, in a meeting on September 12th, 2018 the arborist with the City came to an agreement that 35-feet is acceptable and the house and the trees would be fine. Hence 35-feet showed up in his final report.

So, I’d also like to point out or at least point out here that granting of the Variance is to grant relief from strict application of the law. This is not breaking the law. Zoning is a general process where you try to capture as much as you can but the understanding... the recognition is that
there are cases where the general zoning doesn’t necessarily apply. And therefore, the Variance is created as a process to deal with those cases one by one. So, to apply for a Variance, it’s not breaking the law. To be granted a Variance is not breaking the law, it’s following the law if we meet the findings and Staff and the Director of Planning agree that we meet the findings. And the question before you is do you agree with that? And I have to say that the City’s Tree Protection Regulations, they align well with our wish to preserve our trees because they matter to us at least.

And one thing that is kind of clear is that as the appellant raises issues about not seeing this done, not seeing that done, all I can say is that they have not been apart of the process. They don’t see what we’ve gone through. We’ve reviewed and reviewed and tried all... considered all sorts of options including the ones that they have suggested but considering that with the narrow bit of land that we have between the driveway and the property and the setback on it and between the TPZ and the house that we have. As we extend back we cannot recreate multiple bedrooms back there because of the narrowness. You can’t a room and hallway and a kitchen across a very narrow stretch of land there which is a consequence of the irregular lot and the driveway access. We have limitations, we have a lot of limitations and they are strong limitations that have crossed the threshold for a Variance. Thank you very much.

Chair Templeton: Thank you very much for your comments. Before we turn it over to the Commission I want to ask advice. Would it be alright if we asked the hearing requestor and the applicant to stay in case we have questions directly for them or should we only ask Staff?
Ms. Tanner: I believe that they can... you can ask the hearing requestor or applicant questions.

Chair Templeton: Ok so if you wish to stay in case any of the Commissioners have questions you’re welcome too. Alright, so the first light I see is Commissioner Alcheck.

Commissioner Alcheck: Great, good evening. I just want to thank all of you who’ve spoken tonight, for making the effort to participate in our local process. This sort of shared perspective is the essence of why our meetings take place. So, thank you for coming if this is your first time.

I want to start this discussion at the end by talking about the findings and what I’m going to do is I’m going to talk about Findings Two and Findings Three first. Presuming that those are sort of less complex and maybe if that’s the case then we can avoid having to rehash each of the four findings as we go through. So, I’m going to start with the second finding that needs to be made; the granting of the application shall not affect substantial compliances of the regulations or constitute a grant of special privileges inconsistent with the limitations upon other properties in this vicinity and in the same zone district as the subject property. I think that this finding can be made based on the information we’ve received tonight from the Staff report and from the several letters that we’ve got. I think the remarkable component here is that the second floor complies with R-2 zoning regulations and in particular as well within the envelope of our Daylight Plane which is the right that... which is the threshold that we use to evaluate the inconsistency and compliance, so I think that finding can be made. I also think that the
secondary Variance element, the issue with the wall also considering that if this was just an HIE discussion, it would be compliant. I think that suggests plainly that this finding can once again be made because this wouldn’t violate again the substantial compliance with our regulations if this had sort of felled within the HIE exemption; the improvement exemption.

Ok, I’m going to move to Finding Three, that the application is consistent with the Palo Alto Comprehensive Plan and the purposes of the title. And I think in this case Staff did a good job of outlining that in their determination. I’m happy to go through this if we need but unless somebody feels strongly that our Comprehensive Plan policies somehow are violated. I think that the Staff report speaks strongly to the case that the Comprehensive Plan as a whole and particularly the policies that were enumerated in our Staff report satisfy Finding Number Three.

But I’m happy too (interrupted)

Chair Templeton: Pardon me Commissioner Alcheck. I want to just clarify.

Commissioner Alcheck: I know this is not from Staff.

Chair Templeton: Oh, I want... who provided this document? Ok, the applicant. Thank you, I just wanted to clarify that. Thank you.

Commissioner Alcheck: No, I mean I’m referring to Packet Page 18 for the findings that we need and then I thought in particular if we are... hold on a minute (interrupted)
Chair Templeton: Thank you for helping us follow along with your thoughts Commissioner Alcheck.

Commissioner Hechtman: [unintelligible – off mic]

Commissioner Alcheck: Yeah (interrupted)

Commissioner Lauing: 47 as well.

Commissioner Alcheck: And then Page... I was going to say Packet Pages 46 through (interrupted)

Commissioner Lauing: 47.

Commissioner Alcheck: 49 or excuse me 49 are the crux of the Director’s report and I think that if... unless there’s... I’m happy to double back on it but I’m going to suggest that the statements made on Packet Page 48 regarding Finding Number Three are... really sufficiently make the case that the finding can be made and I would agree with that analysis.

Ok, I’m going to go to Finding Four which I think is a little more complicated and in particular the question about whether the applications would be detrimental or injurious to property or
improvements in the vicinity. And then how it reflects on the public health and public safety and general welfare and general convenience. I think one of the... one of our speakers tonight has spoke quite humorously and elegantly about this notion of privacy and you know we’ve grappled with these ideas of single-story overlays in the past. And one of the things that I use when I consider these notions of second story... single story overlays, our code creates a set of strict regulations regarding Daylight Planes and second story additions for example within our R-2 zones like this one. And I think that if a Variance requested some flexibility with respect to encroaching over a Daylight Plane this would be a very different story. And I think when I think about the notion that we’re going to evaluate whether something can be detrimental or injurious to a property or an improvement in the vicinity I think about value. And from my perspective the bar of determining whether you can be injured by the execution of let’s say an improvement on your property is whether it would conflict with the standards that we set within a zoning... within a zone that applies to all projects within that zone. So regardless whether a lot is substandard in the R-2 Zone, I don’t... I would suggest that we consider injury to be present when a project would exceed regulations general to the zone as opposed to specific to the lot. And the reason why is because if you don’t then the entire concept of a Variance is impossible. If adhering to your zone’s regulations would injury your neighbor then you couldn’t evaluate a property for its special circumstance to determine whether it should theoretically be allowed to do something that it would otherwise would be allowed to do except for X, Y, and Z. That wouldn’t be possible and so I think this would be an entirely different scenario if for example what was being asked and supported by the planning Staff was something that would actually cross the line of what is permitted in an R-2. So, considering that the application is
within the envelope for example, because we talked a lot about privacy and views, within the envelope of the Daylight Plane. I think that should reflect how we evaluate whether such an improvement could injury a neighboring property. And so that’s how I’m approaching the finding in number four, that the expectation should not be that the neighboring properties entitled to anything more than what is strictly provided for by the zone. And if the zone allows for this Daylight Plane than anything up to that daylight plan, in theory, can’t by definition injure the property.

Ok, I’m going to move on. I’m not sure it bears mentioning but I think that the alternative build-out suggestions here if they did in fact negatively impact trees I think we could be in a very similar situation. Were a lawful application to develop on this site, if somehow could be approved by the City in contradiction to the City’s arborist findings could theoretically be appealed because if it did pose a risk to a tree. That could very much be a qualitative injurious to the community so it’s sort of interesting. Not that the part of the evaluation from a Variance perspective but I just wanted to add that.

Ok, I’m going to move now to Finding One and I appreciate you guys letting me have all this extra... extended time. The special... the critical Finding Number One which goes to the heart of all Variances; because of special circumstances applicable to the subject property including but not limited to size, shape, topography, location, or surroundings. The strict application of the requirements regulations prescribed in this title substantially deprives the property... such property owner such property privileges enjoyed by other property in the vicinity and in the
same zoning district as the subject property. We’re not to consider the personal circumstances of the owner and any changes in the size or shape of the subject property made by the owner or its predecessor in interest. So, I’ll just acknowledge one thing, I was not made aware of personal circumstances of the owner except for in the letters that I received from the applicant of this matter. So, I’m not sure if that was a component, I imagine it wasn’t of the Staff’s review considering their familiarity with the code. I think that... well let me say this, I... first I appreciate the invitation by the project applicant to sort of get out there. I think so much of our review requires us to assess factors like size, shape, topography, and the opportunity to get out in the community and see these things is profoundly helpful. And so, for those of you that we’re able to do that I think it probably improved your analysis. So, one of the components of the finding that I think or one of the components of why I think this first findings can be made is number one, they’re irregularly shaped lot. I think that the shape of the lot has forced us to approach any improvements on the site in a unique way and then but for the TPZ Zone we would be able to do something very different here. So, it’s not necessarily that they’re irregularly shaped lot causes all the problems but the irregularly shaped lot in conjunction with the TPZ Zone set by the arborist creates an almost impossible situation where the homeowner, despite being able to improve the lot based on his current size, can’t effectively do so. And I think it’s... there was an interesting discussion about the easement. I’m not really clear why this easement stretches almost the length of the property was recorded as an easement as opposed to a lot line adjustment. It seems... I don’t know that it falls within the special circumstances precisely but the notion that there is effectively a non-legal defined property line that encompasses enough land to make this potentially not substandard. I don’t know if that would still be the case...
because of the width but potentially not a substandard lot I think is interesting. I don’t know that it is a component of... I don’t know that it is a valid special circumstance because if for example, the property owner acquired the land that forms that easement, that would be a change in the size of the lot which is something we’re not supposed to consider. Although I will say that we have experienced in our review on this Commission situation like this that go back before time. That’s what... anything that happened 112-years ago is essentially prehistoric and one of the things that I think is problematic here is that looking at the shape of the lot you have to wonder why was it set up like this? So, I don’t know that that falls into the category of special circumstances but it is a component that I would suggest should be considered by the Council when they review it.

So, one of the arguments that the appellant or applicant... I’m not really sure what the title is. Is it applicant tonight?

**Commissioner Alcheck:** The appellant is the applicant?

**Ms. Tanner:** The applicant is the applicant and the person who’s bringing this before us is the hearing requester.

**Commissioner Alcheck:** The hearing... ok, I will continue... so all previous references to appellant is hearing requestor and from now on I’ll use that word. So, I’ll suggest some of the comments made by the hearing requestor that... regarding the arborist report. Look, it's been
my experience that Dave Doctor may be the most highly regarded arborist in this City. Am I surprised that his initial finding was 42-feet and Staff and whoever pushed and he went down to 35, not surprising. I feel like arborists are consistently pushed into corners and asked to be more conservative. My impression is that he’s spent more than enough time evaluating the TPZ which is a significant component of the special circumstances that I think make Finding One possible. And I think it would be a waste of time to reassess or reinvestigate and a waste of resources. I think we should be able to rely on those two reports just based on his tenor.

And then I would add that I think when you review the Staff report, I’m drawing your attention to Packet Page 47, the Staff... so Staff addresses all these special circumstances. That there’s a historic relevance here that makes this property unique so reshaping it or demolishing it or rebuilding would be an undesirable result to achieve the solution within the framework that’s allowed.

Yeah and... I’ll end on this because I feel like I’m taking to much time. I’ll end on this. This is not the first Variance that I’ve reviewed as a Commissioner in 8-years but it is, to the best of my recollection, the first time Staff has recommended approval of one. And I mention that because it is true, Variances are supposed to... Staff has set an exceedingly high bar for Variances and but if we never grant one, in particular, one with this much supportive evidence then it’s essentially not a tool that our City uses. So, I take the recommendation by Staff to be quite influential on my conclusion but that’s it for me tonight. Thank you.
Chair Templeton: Thank you very much. Commissioner Riggs followed by Commissioner Summa.

Commissioner Riggs: Well, I’ll be simple, I have four points. I evaluated the application in the Packet and I don’t really have questions. Point number two, I can make the findings and I think that too irritated the points that were just made. I find this a very good case for the application of a Variance, particularly I think some of the special considerations that Commissioner Alcheck mentioned. The tension with the Tree Protection Zone as well as the... I find the easement really provocative and I’m ready to move to the Staff recommendation when everybody else is ready.

Chair Templeton: Thank you very much, Commissioner Riggs. Commissioner Summa.

Commissioner Summa: Thank you very much and thank you to the Staff and all the presenters. There was a lot of really great information here and I have to say that I agree with the comments of Commissioner Alcheck. I think the fact this Variance... we have a Variance so it can be used basically and used in the right way. And this project has checked all the boxes in IR, Daylight Plane. It is effectively a... in terms of lot size compliant. I mean it’s odd to have an easement that only one property owner has a right to so it’s effectively part of their lot since there’s no other party that has any access or rights to that easement.
I am also struck by the thorough review of this project and I... in addition to making the findings which I won’t go into detail because I think Commissioner Alcheck did a great job. I also think that this property and this applicant adds value to the neighborhood. They are preserving a historic resource and a precious tree resource for the whole community. And I don’t... I’m not sure it’s appropriate really for someone else to suggest how they might build on their property but I think that it does look like kind of a half story from the front. More like a dormer than a full story and I think it’s appropriate with the architecture.

And I think also that substandard lots in really old part of Palo Alto, there’s all kinds of crazy lot lines in situations that people... that you want to resolve in the best way for a homeowner that wants to bring all this value to the community. And I’m also struck by the support from nearly all of the neighbors and the fact that they feel this will improve their property values. So, I’m also ready to move the Staff recommendation.

Chair Templeton: Thank you, Commissioner Summa. Commissioner Lauing.

Commissioner Lauing: Yes, first I’d just like to acknowledge that this is a very complicated issue relative to Staff presentation and I thought it was just an unusually thorough report that came to us to really lay this thing out. And if you don’t come to every meeting you realize... you don’t realize that I don’t say that every meeting.

Commissioner Riggs: (off mic) Nice job.
Commissioner Lauing: So, it’s particularly well done, really well done. I wanted to ask a couple questions before getting back to the substance. From the applicant... of the City from the applicant’s letter and so... no, not the applicant, the appeal person.

[note – many people spoke at once:] Hearing requester.


Vice-Chair Roohparvar: Hearing requester.

Commissioner Lauing: Right we’ll work this out later. Page 62 which is the letter from Mr. Bronitsky and the last three paragraphs on that are basically all talking about the Tree Protection Zone and that’s been addressed by the homeowner as well. So, I take it... I’m just confirming this, I take it that the City is very comfortable saying that 35-feet is the thing that we’re supposed to be looking at right now?

Ms. Tanner: That’s a great question Commissioner Lauing. We are comfortable with that 35-foot Tree Protection Zone. We do have a member of the Urban Forestry Staff here if you do have further questions. She can go into detail about the calculation method used for that zone if that was desired by the Commission.
Commissioner Lauing: No, I just wanted to confirm that that’s the City’s firm position and then on the next Page 63 there was also reference to a number of other properties that seem to be closer than 25. And assuming that’s true, can we just get some guidance on how that could occur? What’s there or? I know they’re not part of the Variance but I understand the appealer’s question there.

Ms. Tanner: Yeah, I don’t think we need slide Christy but in case we do you’ll have the… mise well bring it back over here. Ms. Fong did look into other properties that we were made aware of by the hearing requester. And we did look at the Redwoods that were similar there and of similar size and stature and found that I think the Tree Protection Zone was consistent. There are certainly other types of trees on some of those properties, Oaks mainly, that are also protected but of a different size and stature and different root system than the Redwood trees. And so, we did compare the Redwood tree Tree Protection Zone on those neighboring properties. Do you want to speak to that any further Ms. Fong?

Ms. Fong: So, I just want to speak on that from my planner perspective. I was looking at those trees and evaluated past permits and also the existing situation there. It appeared that those Tree Protection Zone is consistent with the previous building footprint. So basically, what is new right now on the site is pretty similar to a previous situation on-site when the development was built close to the tree. So, we are not supporting anything more than we are currently seeing on-site from the existing situation. We are just basically approving what was existed there.


**Commissioner Lauing:** Approving what? I didn’t hear that.

**Ms. Fong:** What is existing on-site right now. So, we are not pushing the new building more toward the tree, we are maintaining what is already there as an existing impact.

**Commissioner Lauing:** Ok and then I also just wanted to confirm what I think we’re saying and this is on the plan T-2 where it just shows that... I don’t know if I can get this number that quickly but it seems like about 75 percent because of the neighbor's houses and cottages and so of the existing tree zone is already been penetrated. So, if I understand that graph correctly that makes even more severe that fact that these trees are going to be at higher risk if there’s anymore building than what’s left of the free root growing zone for that tree are, correct?

**Ms. Tanner:** Yes, I believe you’re referring to the neighboring properties where the root system of this tree stretch and there are perhaps some challenges maybe for the root system that currently exists.

**Commissioner Lauing:** That’s right.

**Ms. Tanner:** Yeah, we certainly wouldn’t... I think that’s part of what we want to look at with this tree is not just what is on property but the totality of the root system of the tree. And so, we certainly want to make sure that it is protected. Christy, do you want to speak to the impact? Are you asking if there are other proposed plans on the rest of the root system?
Commissioner Lauing: No.

Ms. Tanner: Just the current condition?

Commissioner Lauing: No, I’m asking if the situation is particularly severe because (interrupted)

Ms. Tanner: Because of that.

Commissioner Lauing: So much of the complete circle has already been penetrated and so there’s not as much left. It looks like a reasonable portion on this property is left but in terms of the entire growing area for the trees (interrupted)

Ms. Tanner: That is correct.

Commissioner Lauing: There’s not much left.

Ms. Tanner: Yes, that is correct Commissioner Lauing.

Commissioner Lauing: So, the severity is increased in this particular location because there were some comments from the folks that appealed that there’s another invasion in there so
why can’t we have an invasion and that’s the answer. Because there are already too many invasions and we need some space for that tree to spread its roots.

Without going off on a tangent I think in some cases homeowners can say I need to take these trees out in order to continue... like the neighbor but in order to do my building and I can’t get it done. But the choice if the City or we are trying to opine on that of removing two Redwood trees or having a small addition as a second floor, I think is just... there’s no sense of spending any time on that as opposed to having it recorded that as a position.

And just a comment on the perceived problem here, the perceived problem from the one who is appealing is that it is the views of a house I guess instead of nature but they took the trees down. The large trees so there are other large trees that can be put up at frankly any size depending on how much you want to spend per tree. That can be happening in the next month.

So, I am... I just want to associate my thoughts on this thing with what Commissioner Alcheck had already said and what Commissioner Summa added. I do think the findings could be made and I’d be supportive.

Chair Templeton: Thank you very much. Commissioner Hechtman.

Commissioner Hechtman: Thank you. I’d like to actually start with a question before I begin my remarks. In the hearing requesters remarks tonight as in one of their... their second letter, the
Council second letter, he referred to the Page and Turnbull report. We saw the first page of it here in the Packet... in the supplemental Packet dated March 19th, 2019 discussing the possibility of I think a 1 ½-story addition in the back of the property. But as you read in the Staff report ultimately Page and Turnbull found ten of the ten factors for this proposed... the proposed plan before us tonight. And so, I’m wondering if was there a Page and Turnbull letter after the March 19th, 2019 that... and perhaps that could be explained to me.

Ms. Tanner: Ms. French who is our historic expert will answer that question.

Ms. Amy French, Chief Planning Official: Well, at least I’m the Historic Resources Board liaison. I see a lot of these things. So, the Secretary of Interior Standards, ten of them, yes, Page and Turnbull submitted a subsequent letter. This was an early version so we have version control issues. You’re not seeing the later version that the HRB did have a look at and did get to consider as they were looking at the revised plans that came back in. So, they did make the findings that all ten Secretary of Interior Standards for rehabilitation where met with the proposed plans.

Commissioner Hechtman: Ok thank you for that clarification. So, I’d like to start with the function of the Variance generally and of course, it’s a state law. Same Variance findings apply in every jurisdiction throughout the state. We actually had a couple more to the state law, the Findings Three and Four but the... really the function is to look at a site and ask that if... ask if it's constrained in some unique way from enjoying the same privileges its neighbors do in the
same zoning district. And those constraints it says clear in case law, those constraints are often physical like a creek running through your property that squeezes you toward a setback but they can also be legal. Legal constraints on your property are constraints and those count too and so that was kind of the framework that I came with when I looked at this application for these Variances. And so, what I see is today there’s a single-story house on that property and there is some room at the front of that house between the face of that house where the door is and the front setback where there could be an expansion but there’s a law that says you can’t build out that direction. And that’s a law of the City and it has to do with the historic nature of this property and the importance of retaining the historic façade and so that is a constraint of this site. That’s one reason limiting available development moving forward and then looking backward from the back of the house where the current design does move back to the… basically to almost the edge of the 35-foot recommended setback from the tree. We have another legal constraint and that’s the TPZ and so this house is squeezed at front and back. And that raises the question of whether some modification of some law of the City is appropriate to allow this house to enjoy the same benefits of its neighbors in the R-2 Zone.

So, I do appreciate the concerns of the neighbors at 441 and your articulation both in your personal emails and the comments and letters of your counsel. But one place that I felt that I was constrained in considering them and that is that our decision, our recommendation needs to be based on something called substantial evidence. And those are essentially facts and expert opinions on expert subjects supported by facts. One thing that’s clear and I know this better than most as a land-use lawyer who is occasionally reminded of this, lawyers’ arguments
are not substantial evidence. They can contain facts that are evidence but they are not themselves substantial evidence and so while I was interested in the position the 441 neighbors have on whether or not a further incursion into the TPZ is advisable. Recognizing as I know they do that the recommend incursion is 27 percent leaving 73 percent unininvaded and in fact, it’s already squeezed down to only 27 percent unininvaded. But recognizing that I don’t have in front of me an arborist analysis that says it’s ok to further invade that. The one I have says it’s not ok and I do understand that the TPZ is not just an issue of distance of a tree from a structure. I know it’s more complicated than that because that’s evident in the record. And so, to me, that’s one of the things that I found constraining in my desire in wanting to give full credit to that position and look at the... whether the TPZ could be reduced. I don’t have any... I don’t have an arborist it could be.

Another aspect that of substantial evidence that I think is... that I’m guided by is, of course, it needs to be relevant. And I thought the neighbors at 441, their counsel made a good point that the personal circumstances of the applicant are not relevant and I agree with that and but I note that in the Director’s findings which are the findings from which the hearing request springs. Those didn’t make reference to those personal circumstances so I don’t believe that they’re part of the findings. So, while I agree with the point I think that Staff and the Director appropriately handled those.

Another frankly irrelevant in my view aspect which I’ve heard in both directions here is value. That’s not apart of any finding here and I think experts may... well, we had a disagreement in
this room as to whether value would be affected. But I can... it’s not to my thinking part of any of the findings.

So, as I’m looking at this what I am seeing is we have a Director’s decision with a series of findings and I’ve reviewed those and I agree with the findings. There are three additional findings that I think support the granting of a Variance and I’d like to... and those are all based on information in the record. I’d like to provide those because I don’t think they are clearly delineated in the Director’s findings. And so, I’d ask to the extent my fellow Commissioners are intending to support the Staff recommendation, that they'd consider whether or not they'd want to include these additional findings of fact with the findings that are made by the Director.

So, the first one is a finding of fact supporting the Findings One and Two, these are the... the Findings One and Two are the state law findings for a Variance. As reflected on Sheet A 2.0 of the current plan, 840 Kipling has a current height of approximately 18-feet. And the adjacent properties at 836, 834 and 832 Kipling, all of which are in the same zoning district as 840, are approximately 18-feet, 23-feet, and 26-feet respectively. So, therefore, exceeding the 17-foot height is a privilege enjoyed by other properties in the same R-2 Zoning District. And I think again that is a finding of fact that supports the granting of this Variance, the first Variance, which is to allow construction to exceed 17-feet.

Then the second additional finding of fact, this also addresses the state law Findings One and Two. This one relates to the other Variance which is at the side... the side... the rear sidewall of
the property. The 6-foot segment of wall which is the subject of the second Variance is replacing an existing 6-foot wall segment which currently encroaches in the side yard set back area. The replacement does not lengthen the area of encroachment and modestly reduces the square footage which would otherwise have been added to the second floor.

And then the last additional finding of fact, this one supports Finding Number Three which relates to the Comp Plan and the local area plan, the SOFA CAP. The plan is proposed for two-stories, it’s consistent with the .35 site coverage max which is applicable to a... as I understand it to a two-story home in the R-2 and to the .45 FAR max which again, is applicable to the R-2 Zone. And incidentally that .45 FAR max does not require a Variance so that plan is consistent with the applicable site coverage max and the FAR max but it does require a Variance to exceed 17-feet in height. If alternatively, we take the 489-square feet which... and construct those on the first floor at the back of the house, in addition to further invading the TPZ against the recommendation of the arborist, it would require another Variance for a 40... for a .45 site coverage where .4 site coverage is allowed for a single-family home. So really here what we have is not a choice between a Variance and no Variance but a choice between two different Variances. One to go up and one to go back and again, that’s ignoring the TPZ. In this choice between the two Variances, the Variance to exceed 17-feet is more consistent with the Comprehensive Plan and the SOFA CAP because both of these plans include policies to protect and preserve Heritage Trees. And so that’s the third, again supplemental finding of fact that I would suggest be included with the recommendation to the Council. Thank you.
Chair Templeton: Thank you very much, Commissioner Hechtman. Commissioner Roohparvar [note -Vice-Chair Roohparvar] did you... you’re good? Ok. I just have a few quick comments before we move onto the considerations of the findings. So first of all, I just want to thank Ms. Fong for a very thorough presentation and report. We all found it... a lot of the details we were looking for were already there and it just an absolute pleasure to read so thank you. I would also like to thank the hearing requester and the applicant. You both gave very compelling presentations and presented your case very strongly.

I will also be agreeing with my fellow Commissioners who have spoken about moving forward with this Variance request for all the reasons that were given. Specifically, or especially that the Variance is meant to... the Variance process is meant to address edge cases like this. I particularly appreciated Commissioner Alcheck’s point about the Variance being specific to a lot but that the proposals conforms with the zone requirements.

I also wanted to say that many of the constraints where addressed on an individual basis rather the problem is we have these multiple constraints and because like Commissioner Hechtman said because we have the multiple constraints you can’t address them individually. You have to think of them in a combination so I think that strengthens the justification for approval of this Variance.

Also, I appreciate Commissioner Hechtman’s comments about legal constraints and site coverage. I thought those were good points that we had not seen through that lens earlier.
And then another comment about the push/pull aspect of how we can view this and it may help the hearing requester come to terms. I would also say that the view could be harmed if the tree were to be damaged or to die as well. Like there are multiple ways that a view can change and it’s not just the building of a structure. There are a variety of risks that have been evaluated by the team, by the Staff and the applicant. And I think that it is admirable to the extent to which that the applicant has been thoughtful and considerate and engaging in the various processes and getting the input and the feedback from as many applicable sources as possible including the HRB and the tree protection.

So those are the reasons I’m inclined to support the Variance request. Thank you. It looks like we two comments, Commissioner Riggs and then Vice-Chair Roohparvar.

**Commissioner Riggs:** I was going to make a motion so Vice-Chair Roohparvar.

**Chair Templeton:** Oh thanks.

**Vice-Chair Roohparvar:** Yeah, I’ll be brief. I just had one follow up question for counsel, City Council [note – she addressed her question to legal Staff]. Correct me if I’m wrong, does a property owner have a right to their view? I don’t believe they have a legal right to views. I think that (interrupted)
Chair Templeton: (off mic) Daylight Plane.

Vice-Chair Roohparvar: No, no, not Daylight Plane, just plane right to it.

Ms. Lee: Yes.

Vice-Chair Roohparvar: Do they have a right... you have a right to (interrupted)

Ms. Lee: You’re correct Commissioner [note – Vice-Chair]. Under California law, there’s no general right to a view.

Vice-Chair Roohparvar: Right to a view. Ok, that’s right, there’s Daylight Plane privacy but no general right to a view. That’s just the point of clarification I wanted, thank you.

Commissioner Lauing: That’s actually stated on Page 49 of the report so.

Vice-Chair Roohparvar: Thank you.

Commissioner Lauing: In different words so.

Chair Templeton: Thank you though it’s a good point to bring up for both of you. Alright, Commissioner Riggs, you wanted to make a motion?
MOTION

Commissioner Riggs: Yes, so I’ll make a motion to support the Staff recommendation to support the second story addition and the Variance and I’ll... but also, I recommend that Staff include the three additional findings suggested by my fellow Commissioner. The first two being tied to Findings One and Two and you can correct me, Commissioner Hechtman. The first two are exceeding the 17-foot height limit is a privilege supported by other landowners. The second one would be the rear side wall replaces an existing encroachment. I’m just paraphrasing and then the third finding that he had which supported I believe Finding Three was the idea that you have limitations with regards to site coverage and FAR. And basically, you’re choosing between two different Variances and a 17-foot Variance is more consistent with the neighborhood than adjusting the FAR given the limitations of the site. Hopefully, Staff can adjust those but I think that we should include those in the recommendation.

SECOND

Commissioner Lauing: I’ll second.

Chair Templeton: You beat me to it. I was going to recognize Commissioner Roopparvar... Vice-Chair Roopparvar. Alright so seconded by Commissioner Lauing. Any discussion? Commissioner Alcheck.
Commissioner Alcheck: Ok so I just... I have to ask because we’re going to vote on it. I didn’t take note while you were talking but it is the notion that there is... this is to the number three. Is the notion that there is... it’s a choice between two Variances. Is the notion that because of the... excluding the TPZ for the moment which I don’t think we need to do that but excluding the TPZ Zones, that the theoretical FAR there allowable would exceed the lot coverage requirement somehow would be (interrupted)

Commissioner Riggs: (off mic) Consistent with R-2.

Commissioner Alcheck: Relevant to (interrupted)

Commissioner Lauing: With R-2.

Commissioner Alcheck: Pursuing a Variance? And the reason I ask that is because if you are theoretically allowed to add a certain amount of FAR but your site coverage would be violated. My impress was you’re not entitled to that FAR. So, it wouldn’t necessarily be something that you could (interrupted)

Commissioner Hechtman: Right that was the... that’s the point. Sorry through the Chair, so the point was if they wanted to pursue that same square footage, right now they have .45 FAR,
right which happens to be in two levels. If you push the top level down to the bottom, it’s still .45, it’s just all on the ground level which makes it a .45 site coverage and a .45 FAR, right?

Commissioner Alcheck: Right, no (interrupted)

Commissioner Hechtman: So, the .45 FAR is allowed but the site coverage would exceed and you’re correct that the law doesn’t allow it but if you wanted it, you’d be seeking a Variance.

Commissioner Alcheck: Right no I guess what I’m suggesting is I would find it would unlikely that Staff would support the rationale for a Variance in that particular situation. You take for example a single-overlay area, they’re not entitled to a second story, they may be entitled by the... it’s hard to imagine a scenario where they’re lot size would entitle them to a FAR that would be larger than their site coverage maximum. It seems like those are intentionally similar but (interrupted)

Chair Templeton: Commissioners I’m going to reign you in here on this one. It’s a bit of a hypothetical and I love the thought (interrupted)

Commissioner Alcheck: Yeah, it’s a little (interrupted)

Chair Templeton: I love the thought exercise but (interrupted)
Commissioner Riggs: Alright, wait, can I weigh in? I (interrupted)

Chair Templeton: Is there any adjustment you’d make? Yes, Commissioner Riggs.

Chair Templeton: Well I think that we can condition it by tweaking the motion a little. That we can make them that Staff consider these suggestions in the report to Council. I don’t know that we need to be prescriptive on these because there will be a Staff report to Council. These were suggestions by Commissioner Hechtman. If we build them into the motion as suggestions to Staff then they’ll be presented as such if appropriate. And so, I would assume that spirit would be carried forward in the motion. If I need to be explicative in the motion I will.

Commissioner Alcheck: Can I… I’ll just say this. I did find it very compelling the notion that the SOFA guidelines specifically made a preference for tree preservation. So, I think from that perspective that is a good finding of fact and I actually think that adding the finding of facts would be great so I support the idea of making a hard recommendation. I just… forget it. Forget I said anything. I apologize. I just got… it was confusing and complex and I apologize for asking the question.

Chair Templeton: Alright I have to check in with our seconder, do we want to make the change that (interrupted)

Commissioner Riggs: I believe Staff (interrupted)
Chair Templeton: Oh, did you... ok, Staff?

Ms. Tanner: I just wanted to, if I may support what Commissioner Riggs is suggesting. I think it would be unlikely for us to... in the findings and not that this is what Commissioner Hechtman was suggesting, to compare it to a hypothetical Variance because that’s not what’s before us. But what I did take from that and do appreciate is both the Comprehensive Plan and SOFA how they would prefer for tree preservation, historic source preservation which is in line with the spirit of what you’re saying and kind of the thrust of that. So, whether you need to amend the motion to be that Staff consider the spirit of these things, I will say that’s what I was taking from that and if that is indeed the spirit of the suggestion. I think that is fine and consistent with what Staff would be comfortable pursuing.

Chair Templeton: Commissioner Riggs.

Commissioner Riggs: Thanks. I mean given what I think what this dialog we just had, I think the motion is fine it said. I think the way I phrased it was that they consider Commissioner Hechtman’s suggestions and I think Staff... I would trust that Staff would carry those forward to Council. So, I would prefer to just leave the motion as is.

Chair Templeton: Sounds good. Seconder, we’re good?
Commissioner Lauing: Yeah no I thought you were going to try to take them out again which I think they should... they should stay in there. Ok, we got... aright vote.

VOTE

Chair Templeton: I... any other discussion? Alright, let’s vote. If you are in support of the motion on the table by Commissioner Riggs please raise your hand. Alright, any opposed? Any abstain? Oh no, I’m just kidding. We’re... it was a 7 to 0 so. Alright well thank you very much and thank you again for your time and coming before us. And especially to the folks outside the application process who came to chime in, I appreciate that so much.

MOTION PASSED 7(Summa, Alcheck, Hechtman, Templeton, Roohparvar, Lauing, Riggs)-0

Commission Action: Motion by Riggs, seconded by Lauing. 7-0
Attachment E

**Project Plans**

Hardcopies of project plans are provided to Director’s Hearing members. These plans are available to the public online and by visiting the Planning and Community Environmental Department on the 5th floor of City Hall at 250 Hamilton Avenue.

**Directions to review Project plans online:**

1. Go to: [https://paloalto.buildingeye.com/planning](https://paloalto.buildingeye.com/planning)
2. Search for “840 Kipling Street” and open record by clicking on the green dot
3. Review the record details and open the “more details” option
4. Use the “Records Info” drop down menu and select “Attachments”
5. Open the attachment named “Proposed Approved Plan- Received on November 20, 2019”
Report Type: Consent Calendar  Meeting Date: 4/20/2020

Summary Title: Amended and Restated Agreement for the San Francisquito Creek Joint Powers Authority

Title: Approval of the Amended and Restated Agreement for the San Francisquito Creek Joint Powers Authority (JPA) Between the Cities of Palo Alto, Menlo Park, and East Palo Alto, the Santa Clara Valley Water District, and the San Mateo County Flood and Sea Level Rise Resiliency District, to Reflect the Recent Name Change of the Latter Agency and the Current Administrative Practices of the JPA

From: City Manager

Lead Department: Public Works

Recommendation
Staff recommends that Council approve and authorize the City Manager or his designee to execute the Amended and Restated San Francisquito Creek Joint Powers Agreement (Attachment A) between the Cities of Palo Alto, Menlo Park, and East Palo Alto, the Santa Clara Valley Water District, and the San Mateo County Flood and Sea Level Rise Resiliency District to reflect the recent name change of the latter agency and the current administrative practices of the JPA, which was formed for the primary purpose of managing the joint contribution of services and providing policy direction on issues of mutual concern relating to San Francisquito Creek.

Background
In 1998, the San Francisquito Creek flooded and damaged approximately 1,700 properties. On May 18, 1999, the City Council approved the Joint Powers Agreement (Staff Report #214:99), forming the San Francisquito Creek Joint Powers Authority (SFCJPA) and enabling the five member agencies to jointly exercise their powers and make decisions on creek policies and improvements. Since entering into the Joint Powers Agreement, changes have occurred which prompt the amendment of the original agreement.

Discussion
On January 1, 2020, the San Mateo County Flood Control District changed its name to the San Mateo Flood and Sea Level Rise Resiliency District. This name change necessitated an update to the JPA agreement. In addition, the JPA board of directors recommended other updates to the
agreement. Many of these updates involved minor language changes to reflect current practices of the JPA or updates to State law related to JPAs. Other updates involved larger policy issues relative to expanding the JPA’s enumerated purposes and powers. At the City manager/executive director meeting, staff discussed dividing the amendment process into two phases. The first phase would address the administrative amendments and the second phase would address the more substantive policy-oriented updates. The reason for this is the substantive amendments needed more time for discussion amongst the member entities.

The administrative amendments encompassed in this first phase are shown in track changes on Attachment B and include clarifications and modifications regarding the San Mateo County Flood Control District’s name change; who can serve as a JPA Board member timing of Board elections; maintenance of both operating and capital budgets; designation of fiscal year; updated insurance and bonding provisions; expanded options for audits and other financial controls; modification to JPA expulsion and termination voting provisions; JPA agreement amendment process and inclusion of a standard “no third party beneficiaries” provision.

While the SFCJPA is not a signatory agency to this agreement, on February 27, 2020 the SFCJPA Board voted unanimously to approve the amended and restated agreement to show to their respective member agencies that the SFCJPA Board members support the proposed updates. Council Member Cormack serves as Palo Alto’s representative on the SFCJPA Board, with Council Member DuBois serving as the alternate.

**Resource Impact**
This recommendation does not represent any changes to the existing agreement in terms of resources.

**Policy Implications**
This recommendation does not represent any changes to existing City policies.

**Stakeholder Engagement**
Stakeholder engagement is not required as part of this agreement amendment.

**Environmental Review**
Council approval of the Amended and Restated San Francisquito Creek Joint Powers Agreement is exempt from the California Environmental Quality Act (CEQA) because it can be seen with certainty that entering into the agreement will not result in any environmental impacts.

**Attachments:**
- Attachment7.a: A - Amended and Restated JPA Agreement
- Attachment7.b: B - Amended and Restated JPA Agreement - track changes
JOINT POWERS AGREEMENT

FOR THE

SAN FRANCISQUITO CREEK

JOINT POWERS AUTHORITY

AMENDED AND RESTATED

as of

January 1, 2020
## Joint Powers Agreement

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Amended and Restated Joint Powers Agreement
04/02/20
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SAN FRANCISQUITO CREEK
JOINT POWERS AGREEMENT

This Amended and Restated Agreement ("Agreement") is made by and among the City of Menlo Park, the City of Palo Alto, the City of East Palo Alto, the Santa Clara Valley Water District, and the San Mateo County Flood and Sea Level Rise Resiliency District ("Member Entities"), all of which are public entities organized and operating under the laws of the State of California and each of which is a public agency as defined in California Government Code section 6500.

RECITALS

A. The Joint Exercise of Powers Act, being Government Code sections 6500 et seq. (the "JPA Law"), permits two or more local public entities by agreement to jointly exercise any power common to them.

B. Following years of effort to address environmental and flooding concerns related to the watershed and floodplain of San Francisquito Creek (encompassing approximately 50 square miles from the Santa Cruz Mountains to San Francisco Bay), and soon after the flood of record in 1998 damaged approximately 1,700 properties, the Member Entities established the San Francisquito Creek Joint Powers Authority pursuant to that certain "Joint Exercise Agreement Creating the San Francisquito Creek Joint Powers Authority," dated as of May 18, 1999, to collectively contribute resources and implement policies and projects of mutual interest relating to the primary natural features that unite them, including the San Francisquito Creek ("Creek").

C. The governing body of each Member Entity has determined that it is in the Member Entity’s best interest and in the public interest that this Amended and Restated Agreement be executed to make minor procedural updates, including the change on January 1, 2020 of the San Mateo County Flood Control District to the San Mateo County Flood and Sea Level Rise Resiliency District.

NOW, THEREFORE, the Member Entities, by, between and among themselves, in consideration of the mutual benefits, promises, and agreements set forth below, hereby agree as follows:

1. CREATION OF THE SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY. Pursuant to the JPA Law, the Member Entities create a public agency, separate and apart from the Member Entities to be known as the San Francisquito Creek Joint Powers Authority (the “Authority”). Pursuant to Government Code section 6508.1, the debts, liabilities, and obligations of the Authority shall not constitute debts, liabilities, or obligations of any party to this Agreement. A Member Entity may separately contract for or assume responsibility for specific debts, liabilities, or obligations of the Authority. For purposes of, and to the extent required by, Government Code section 6509, in exercising its powers, the Authority shall be
subject to the restrictions upon the manner of exercising the powers of the City of Menlo Park, except as otherwise authorized or permitted by the JPA Law.

2. **PURPOSES.** This Agreement is entered into by Member Entities under the JPA Law for the following purposes:

   a. To facilitate and perform bank stabilization, channel clearing and other Creek maintenance.

   b. To plan flood control measures for the San Francisquito Creek watershed.

   c. To take actions necessary to preserve and enhance environmental values and instream uses of San Francisquito Creek.

   d. To coordinate emergency mitigation and response activities relating to San Francisquito Creek.

   e. To make recommendations to Member Entities for funding and alternatives for long term flood control for Member Entity consideration.

3. **PARTIES TO AGREEMENT.** Each Member Entity certifies that it intends to and does contract with every other Member Entity which is a signatory to this Agreement. Each Member Entity also certifies that the deletion of any Member Entity from this Agreement does not affect this Agreement nor each Member Entity’s intent to contract with the Member Entities then remaining. Pursuant to Assembly Bill 825 (Chapter 292, Statutes of 2019), which amended the San Mateo County Flood Control District Act to provide for the San Mateo County Flood and Sea Level Rise Resiliency District, the Member Entities agree that the San Mateo County Flood and Sea Level Rise Resiliency District is the entity formerly known as the San Mateo County Flood Control District, and as such is subject to the terms and conditions of this Agreement.

4. **TERM OF AGREEMENT.** This Agreement became effective as of May 18, 1999 and continues in full force until terminated in accordance with Paragraph 18. (Termination and Distribution).

5. **POWERS OF THE AUTHORITY.** The Authority through its Board of Directors is authorized, in its own name and subject to the limitations set forth below, to do all acts necessary to fulfill the purposes of this Agreement referred to in Paragraph 2. (Purposes) including, but not limited to, each of the following:

   a. Make and enter into contracts;

   b. Incur debts, liabilities, and obligations, provided that no debt, liability, or obligation of the Authority shall be a debt, liability, or obligation of a Member Entity except as separately agreed to by a Member Entity;

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c. Receive contributions and donations of property, funds, services, and other forms of assistance from any source;

d. Sue and be sued in its own name;

e. Contract with independent consultants and/or contractors;

f. Receive, collect, and disburse monies;

g. Carry out other duties as required to accomplish other responsibilities as set forth in this Agreement;

h. Assign, delegate, or contract with a Member Entity or third party to perform any of the duties of the Board including, but not limited to, acting as administrator for the Authority; and

i. Exercise all other powers necessary and proper to carry out the provisions of this Agreement.

These powers shall be exercised in the manner provided by applicable law and as expressly set forth in this Agreement.

6. MEMBER ENTITY APPROVALS AND RESPONSIBILITIES. Each Member Entity has the approval authority, obligations and responsibilities set forth in this Agreement. No action of the Authority shall be effective or binding unless and until such action has been approved in accordance with Subparagraph “e.” (Action of the Board) of Paragraph 10. (Board Members) by the Board of Directors consistent with a budget approved by independent action of each Member Entity’s governing body.

7. PROJECT PARTICIPATION APPROVAL AUTHORITY. Member Entities shall have the right to determine independently whether to participate in any capital improvement project. No capital improvement project shall be approved by the Authority unless and until Member Entities sufficient to fund the project fully have approved the project by independent action of each such funding Member Entity’s governing body.

8. MEMBERSHIP. New Member Entities may be added to the Authority by amending this Agreement, as described in Paragraph 21. (Amendments), and Member Entities may withdraw or be expelled, as described in Paragraph 16. (Withdrawal) and Paragraph 17. (Expulsion).

9. BOARD OF DIRECTORS.

a. Directors. There shall be a Board of Directors (the “Board”) to govern the affairs of the Authority. The Board shall be comprised of one director, and one alternate director, from each Member Entity. Each director has one vote. An alternate director may cast a vote as a member of the Board of Directors only in the absence of the director from that same San Francisquito Creek Joint Powers Authority
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Member Entity. Each director and alternate director shall be a member of the governing body of the Member Entity and shall be designated by its governing body; provided, however, that no two directors and no two alternate directors shall be from the same governing body of any Member Entity.

b. **Compensation.** Directors and alternate directors are not entitled to compensation by the Authority. The Board may authorize reimbursement of expenses incurred by directors or alternate directors.

c. **Powers.** The powers of the Board are each of the powers of the Authority not specifically reserved to the Member Entities by this Agreement. The Member Entities retain the following powers:

   1. The designation of the Board as specified in Subparagraph “a.” of Paragraph 9. (Board of Directors);

   2. Approval of an amendment to this Agreement as specified in Paragraph 21. (Amendments);

   3. Approval of actions pursuant to Paragraph 6. (Member Entity Approvals and Responsibilities);

   4. Approval of project participation as specified in paragraph 7. (Project Participation Approval Authority); and

   5. Approval of the annual budget of the Authority as specified in Paragraph 13. (Budget).

10. **BOARD MEMBERS.**

    a. **Meetings.** The Board shall hold at least one regular meeting each year, at which time the Board shall elect its officers as appropriate to comply with Paragraph 11. (Officers). The Board shall fix the date, hour, and place at which each regular meeting is to be held. To the extent practicable, each Board meeting shall be held in Northern Santa Clara County or Southern San Mateo County. The Chair presides at all meetings. A special meeting may be called upon written request by the Chair or at least two directors.

    b. **Brown Act.** Each regular, adjourned regular, or special meeting of the Board shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act (Sections 54950, et seq., of the Government Code).

    c. **Minutes.** The Clerk of the Board shall draft minutes of each regular and special meeting of the Board, which shall be considered for approval by the Board at a subsequent regular meeting.
d. **Quorum.** No business may be transacted by the Board without a quorum of members of the Board being present except that less than a quorum may adjourn from time to time. A quorum consists of a majority of the members of the Board.

e. **Action of the Board.** Except as otherwise specified in this Agreement, any action of the Board shall require a vote of a majority of the Board.

11. **OFFICERS.**

a. **Officers.** The officers of the Authority are the Chair, Vice-Chair, and Secretary.

b. **Election/Term/Duties.** The officers shall be elected or appointed by the Board at its first meeting of the calendar year, unless that is delayed by an action of the Board. The term of office for Chair, Vice-Chair, and Secretary is one year. The officers shall assume the duties of their offices upon being elected or appointed, as appropriate. If any of the Chair, Vice-Chair, or Secretary ceases to be a member of the Board, the Board shall elect or appoint a new officer at the next regular meeting of the Board held after the vacancy occurs.

c. **Compensation.** Officers are not entitled to compensation by the Authority. The Board may authorize reimbursement of expenses incurred by officers.

d. **Appointment/Contract.** The Board may appoint such officers and may hire or contract with such persons or firms as it considers necessary to carry out the purposes of this Agreement.

12. **FISCAL YEAR.** The first fiscal year of the Authority is July 1, 1999 through June 30, 2000. Each subsequent fiscal year of the Authority shall begin on July 1\(^{st}\) and end on June 30\(^{th}\).

13. **BUDGET.** The Board shall adopt an annual operating budget, which shall be separate from the Authority’s capital projects budget. The operating budget shall include the proposed contribution from each Member Entity for the fiscal year and other sources of income. The operating budget shall not be effective unless and until the governing body of each Member Entity has approved that Member Entity’s contribution to the budget. Member Entity contributions shall become immediately due and payable to the Authority upon adoption of the budget, unless expressly provided otherwise in the budget.

14. **ANNUAL AUDIT AND AUDIT REPORTS.** The Board shall cause an annual financial audit to be made by an independent certified public accountant with respect to all Authority receipts, disbursements, other transactions, and entries into the books. A report of the financial audit shall be filed as a public record with each Member Entity. The audit shall be filed no later than as required by State law. The Authority shall pay the cost of the financial audit from its annual operating budget in the same manner as other administrative costs.
15. **ESTABLISHMENT AND ADMINISTRATION OF FUNDS.**

   a. **Accountability.** The Authority is responsible for the strict accountability of all funds and reports of all receipts and disbursements. It shall comply with every provision of law relating to the establishment and administration of funds, particularly Section 6505 of the California Government Code. The funds shall be accounted for on a full accrual basis.

   b. **Investment/Disbursement.** The Authority shall receive and disburse funds only in accordance with policies and procedures established by the Board and in conformity with applicable law.

   c. **Insurance/Bond.** The Authority shall procure, carry and maintain, in full force and effect, at all times during the term of this Agreement, such insurance and bonds to protect the Authority and its members of the Board, officers, employees, agents and Member Entities, as deemed appropriate by the Board.

   d. **Depository and Auditor Controller.** The Board shall designate one of its officers, employees or a third party to perform all acts required by Government Code Sections 6505 (regarding an annual audit), 6505.1 (regarding charge of and access to property), 6505.5 (regarding the depository and custodian of money), and 6505.6 (regarding independent audit where an officer or employee acts as treasurer, auditor or both), as such laws are amended from time to time.

16. **WITHDRAWAL.** Member Entities may withdraw from the Authority for subsequent fiscal years by providing written notice to the Authority and each Member Entity on or before May 1 of any fiscal year. Withdrawal shall be effective on July 1 of the next fiscal year. This shall be the exclusive means by which a Member Entity may withdraw from the Authority. Any Member Entity that withdraws shall remain liable for any budget contributions or capital improvement project participation approved before withdrawal. Any Member Entity that withdraws shall remain liable for any and all demands, claims, or liabilities of any nature, including death or injury to any person, property damage, or any other loss caused by or arising out of that party’s performance or failure to perform the obligations assumed before the Member Entity withdraws from this Agreement. Any Member Entity that withdraws shall remain subject to the provisions of Paragraph 23. (Liability of the Authority; Release and Indemnity) with respect to any event or occurrence taking place before the Member Entity withdraws.

17. **EXPULSION.** The Authority may expel a Member Entity from the Authority by a four-fifths (4/5) vote of the Board for a breach of this Agreement determined by the Board to be a material breach. Any Member Entity that has been expelled pursuant to this paragraph shall have no further liability or obligation pursuant to this Agreement after the effective date of such expulsion; except such Member Entity shall remain liable for any and all demands, claims, or liabilities of any nature, including death or injury to any person, property damage, or any other loss caused by or arising out of that party’s performance or failure to perform the obligations assumed before the Member Entity was expelled, including any budget contributions or capital improvement project participation approved before expulsion. Any Member Entity that has been
expelled shall remain subject to the provisions of Paragraph 23. (Liability of the Authority; Release and Indemnity) with respect to any event or occurrence taking place before the Member Entity was expelled.

18. **TERMINATION AND DISTRIBUTION.**

a. **Termination.** This Agreement shall continue until terminated. This Agreement may be terminated by the written consent of four-fifths (4/5) of the Member Entities; provided, however, this Agreement and the Authority shall continue to exist after termination for the purpose of disposing of all claims, distribution of assets, and all other functions necessary to conclude the obligation and affairs of the Authority.

b. **Surplus.** In the event that the Authority is terminated, any surplus money on deposit in any fund or account of the Authority shall be returned in proportion to the contributions made as required by Section 6512 of the California Government Code. The Board is vested with all powers of the Authority for the purpose of concluding and dissolving the business affairs of the Authority, including for the disposition, division, or distribution of any property acquired as a result of the joint exercise of powers.

19. **NOTICES.** Notices to each Member Entity under this Agreement are sufficient if mailed to its respective address on file with the Authority.

20. **PROHIBITION AGAINST ASSIGNMENT.** No Member Entity may assign a right, claim, or interest it may have under this Agreement, and any such assignment shall be void. No creditor, assignee, or third-party beneficiary of a Member Entity has a right, claim, or title to any part, share, interest, fund, or asset of the Authority.

21. **AMENDMENTS.** This Agreement may be amended by approval by the governing body for each and every Member Entity. A proposed amendment must be submitted to each Member Entity at least thirty (30) days in advance of the date when the Member Entity considers it. An amendment is to be effective immediately unless otherwise designated.

22. **SEVERABILITY.** If a portion, term, condition, or provision of this Agreement is determined by a court to be illegal or in conflict with the law of the State of California, or is otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions, and provisions is not affected.

23. **LIABILITY OF THE AUTHORITY; RELEASE AND INDEMNITY.** Funds of the Authority may be used to defend, indemnify, and hold harmless the Authority, any Member Entity, any member of the Board, and each officer, employee and agent of the Authority for their actions taken within the scope of their duties while acting on behalf of the Authority. The parties to this Agreement release each other and agree to hold each other harmless, as well as their officers and employees, for any loss or liability arising from their respective activities pursuant to this Agreement. Except as otherwise provided herein, each party agrees to indemnify, defend and hold harmless the other parties, their officers, agents, and employees from any and all

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demands, claims, or liabilities of any nature, including death or injury to any person, property damage, or any other loss caused by or arising out of that party’s performance or failure to perform the obligations assumed under this Agreement. Each Member Entity agrees that legal counsel for any Member Entity may be designated by the Board to represent the Authority by performing legal services, including litigation, and that any potential conflict of interest arising from such representation shall be deemed waived by the Authority and Member Entity, unless an actual adverse relationship exists between the Member Entity and the Authority with respect to the particular matter. The designation of legal counsel from a Member Entity shall be with the approval of that Member Entity.

24. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

25. **COUNTERPART.** This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one instrument.

26. **AGREEMENT COMPLETE.** The foregoing constitutes the full and complete Agreement of the Member Entities. There are no oral understandings or agreements not set forth in writing herein.

27. **NO THIRD-PARTY BENEFICIARIES.** Nothing in this Agreement, whether express or implied, shall be construed to give any person or entity, other than the parties hereto, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions, or provisions contained herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below.

[SIGNATURES TO FOLLOW ON SEPARATE PAGES]
DATED: ________________, 2020

CITY OF MENLO PARK

By: ________________
   Cecilia Taylor, Mayor

ATTEST:

By: ________________
   Judi Herren, City Clerk

APPROVE AS TO FORM:

___________________________
Cara E. Silver
Interim City Attorney
Dated: __________________, 2020

CITY OF PALO ALTO

By: __________________________
Adrian Fine, Mayor

Attest:

By: __________________________
Beth Minor, City Clerk

Approve as to form:

___________________________
Cassie Coleman
Assistant City Attorney
DATED: ______________________, 2020

CITY OF EAST PALO ALTO

By: __________________________
Regina Wallace-Jones, Mayor

ATTEST:

By: __________________________
Walfred Solorzano, City Clerk

APPROVE AS TO FORM:

____________________________________
Rafael Alvarado
City Attorney
DATED: ______________________, 2020

SANTA CLARA VALLEY WATER DISTRICT

By: ______________________________
    Nai Hsueh, Chair

ATTEST:

By: ______________________________
    Michele L. King, CMC, Board Clerk

APPROVE AS TO FORM:

____________________________
District Counsel By
Leslie Orta
Senior Assistant District Counsel
DATED: ______________________, 2020

SAN MATEO COUNTY FLOOD AND SEA LEVEL RISE RESILIENCY DISTRICT

By: _______________________________
    Dave Pine, Chair

ATTEST:

By: _______________________________
    Christine Boland, Interim Board Clerk

APPROVE AS TO FORM:

______________________________
Brian Kulich
Lead Deputy County Counsel
General Counsel
JOINT POWERS AGREEMENT
CREATING FOR THE
SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY

Dated
AMENDED AND RESTATED
as of
May 18, 1999
January 1, 2020
JOINT POWERS AGREEMENT

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SAN FRANCISQUITO CREEK JOINT POWERS AGREEMENT

This Amended and Restated Agreement ("Agreement") is made by and among the City of Menlo Park, the City of Palo Alto, the City of East Palo Alto, the Santa Clara Valley Water District, and the San Mateo County Flood Control and Sea Level Rise Resiliency District ("Member Entities"), all of which are public entities organized and operating under the laws of the State of California and each of which is a public agency as defined in California Government Code section 6500.

RECITALS

A. The Joint Exercise of Powers Act, being Government Code sections 6500-6515, permitting et seq. (the "JPA Law"), permits two or more local public entities by agreement to jointly exercise any power common to them, authorizes the Member Entities to enter in this San Francisquito Creek Joint Powers Agreement ("Agreement").

B. Each Member Entity desires to join together with the other Member Entities for the primary purpose of managing the joint contribution of services and providing policy direction on issues of mutual concern relating to the San Francisquito Creek ("Creek"), including bank stabilization, channel clearing and other Creek maintenance, planning of flood control measures, preserving and enhancing environmental values and instream uses, and emergency response coordination. Following years of effort to address environmental and flooding concerns related to the watershed and floodplain of San Francisquito Creek (encompassing approximately 50 square miles from the Santa Cruz Mountains to San Francisco Bay), and soon after the flood of record in 1998 damaged approximately 1,700 properties, the Member Entities established the San Francisquito Creek Joint Powers Authority pursuant to that certain "Joint Exercise Agreement Creating the San Francisquito Creek Joint Powers Authority," dated as of May 18, 1999, to collectively contribute resources and implement policies and projects of mutual interest relating to the primary natural features that unite them, including the San Francisquito Creek ("Creek").

C. The governing body of each Member Entity has determined that it is in the Member Entity’s best interest and in the public interest that this Amended and Restated Agreement be executed and that it is participating as a member of the public entity created by this Agreement. to make minor procedural updates, including the change on January 1, 2020 of the San Mateo County Flood Control District to the San Mateo County Flood and Sea Level Rise Resiliency District.

NOW, THEREFORE, the Member Entities, by, between and among themselves, in consideration of the mutual benefits, promises, and agreements set forth below, hereby agree as follows:

1. CREATION OF THE SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY. Pursuant to Chapter 5, Division 7, Title 1 of the Government Code of the State of California (commencing with Section 6500) (as amended from time to time, the "JPA Law")
**JPA Law**, the Member Entities create a public agency, separate and apart from the Member Entities to be known as the San Francisquito Creek Joint Powers Authority (the “Authority”). Pursuant to Government Code section 6508.1, the debts, liabilities, and obligations of the Authority shall not constitute debts, liabilities, or obligations of any party to this Agreement. A Member Entity may separately contract for or assume responsibility for specific debts, liabilities, or obligations of the Authority. The Authority shall require indemnification on behalf of itself and its members as determined by its Board of Directors from entities with which it enters into agreements. For purposes of, and to the extent required by, Government Code section 6509, in exercising its powers, the Authority shall be subject to the restrictions upon the manner of exercising the powers of the city or county Member Entity specified in this Agreement City of Menlo Park, except as otherwise authorized or permitted by the JPA Law.

2. **PURPOSES.** This Agreement is entered into by Member Entities under the JPA Law for the following purposes:

   a. To facilitate and perform bank stabilization, channel clearing and other Creek maintenance.
   
   b. To plan flood control measures for the San Francisquito Creek watershed.
   
   c. To take actions necessary to preserve and enhance environmental values and instream uses of San Francisquito Creek.
   
   d. To coordinate emergency mitigation and response activities relating to San Francisquito Creek.
   
   e. To make recommendations to Member Entities for funding and alternatives for long term flood control for Member Entity consideration.

3. **DEFINITIONS.** In this Agreement unless the context otherwise requires:

   a. “Administrative Cost” means the amount charged to each Member Entity by the Authority for the Authority’s general operating costs and expenses.
   
   b. “Authority” means the San Francisquito Creek Joint Powers Authority.
   
   c. “Board” or “Board of Directors” means and is the governing body of the Authority constituted as set forth in Paragraph 10 of this Agreement.
   
   d. “JPA Law” means Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the California Government Code, as amended from time to time.
   
   e. “Member Entity” means and shall include each public agency (as defined in Section 6500 of the JPA law), which is a party to this Agreement.
   
   f. “Creek” means and is the San Francisquito Creek.

4. **PARTIES TO AGREEMENT.** Each Agreement does not affect this Agreement nor each Member Entity’s intent to contract with the Member Entities then remaining. Pursuant to Assembly Bill 825 (Chapter 292, Statutes of 2019),
which amended the San Mateo County Flood Control District Act to provide for the San Mateo County Flood and Sea Level Rise Resiliency District, the Member Entities agree that the San Mateo County Flood and Sea Level Rise Resiliency District is the entity formerly known as the San Mateo County Flood Control District, and as such is subject to the terms and conditions of this Agreement.

5. **TERM OF AGREEMENT.** This Agreement became effective as of May 18, 1999, and continues in full force until terminated in accordance with Paragraph 20.18 (Termination and Distribution).

6. **POWERS OF THE AUTHORITY.** The Authority through its Board of Directors is authorized, in its own name and subject to the limitations set forth below, to do all acts necessary to fulfill the purposes of this Agreement referred to in Paragraph 2 (Purposes) including, but not limited to, each of the following:

   a. Make and enter into contracts;
   
   b. Incur debts, liabilities, and obligations, provided that no debt, liability, or obligation of the Authority shall be a debt, liability, or obligation of a Member Entity except as separately agreed to by a Member Entity;
   
   c. Receive contributions and donations of property, funds, services, and other forms of assistance from any source;
   
   d. Sue and be sued in its own name;
   
   e. Contract with independent consultants and/or contractors;
   
   f. Receive, collect, and disburse monies;
   
   g. Carry out other duties as required to accomplish other responsibilities as set forth in this Agreement;
   
   h. Assign, delegate, or contract with a Member Entity or third party to perform any of the duties of the Board including, but not limited to, acting as administrator for the Authority; and
   
   i. Exercise all other powers necessary and proper to carry out the provisions of this Agreement.

   These powers shall be exercised in the manner provided by applicable law and as expressly set forth in this Agreement.

7. **MEMBER ENTITY APPROVALS AND RESPONSIBILITIES.** Each Member Entity has the approval authority, obligations and responsibilities set forth in this Agreement. No action of the Authority shall be effective or binding unless and until such action has been approved in accordance with Subparagraph “e” (Action of the Board) of Paragraph 11.e 10 (Board Members).
by the Authority Board of Directors consistent with a budget approved by independent action of each Member Entity’s governing body.

8.7 PROJECT PARTICIPATION APPROVAL AUTHORITY. Member Entities shall have the right to determine independently whether to participate in any capital improvement project. No capital improvement project shall be approved by the Authority unless and until Member Entities sufficient to fund the project fully have approved the project by independent action of each such funding Member Entity’s governing body.

9. MEMBERSHIP. New Member Entities may be added to the Authority by amending this Agreement, as described in Paragraph 21 (Amendments); and Member Entities may withdraw or be expelled, as described in Paragraph 16 (Withdrawal) and Paragraph 17 (Expulsion).

a. Voting Members. All Member Entities shall be Voting Members.

b. Associate Membership.

(1) Nonprofit corporations and academic and charitable organizations located or operating within the jurisdictional limits of a Member Entity shall be eligible to join the Authority as Associate Members, subject to the approval of the Board of Directors.

(2) Associate Members shall be entitled to attend all meetings of the Board of Directors and participate in discussion of all items of business but shall not be entitled to vote or participate in formal debate of a motion on the floor. Further, no representative of an Associate Member may become an officer or director of the Authority.

(3) For purposes of this Agreement, only Voting Members shall be referred to as “Member Entities.”

10. BOARD OF DIRECTORS.

a. Directors. There shall be a Board of Directors (the “Board”) to govern the affairs of the Authority. The Board shall be comprised of one director, and one alternate director, from each Member Entity. Each director has one vote. An alternate director may cast a vote as a member of the Board of Directors only in the absence of the director from that same Member Entity. Each director and alternate director shall be a member of the governing body of the Member Entity. Each director and shall be designated by the governing board of the respective Member Entity. The body; provided, however, that no two directors and no two alternate directors shall be appointed by the Director designated by a Member Entity in the absence of designation of alternates by a from the same governing body of any Member Entity.

b. Compensation. Directors and alternate directors are not entitled to compensation by the Authority. The Board may authorize reimbursement of expenses incurred by directors or alternate directors.
c. Powers. The powers of the Board are each of the powers of the Authority not specifically reserved to the Member Entities by this Agreement. The Member Entities retain the following powers:

(1) The designation of the Board as specified in Subparagraph “a” of Paragraph 9 (Board of Directors as specified in Paragraph 10);

(2) Approval of an amendment to this Agreement as specified in Paragraph 2321 (Amendments);

(3) Approval of actions pursuant to Paragraph 7 (Member Entity Approvals and Responsibilities);

(4) Approval of project participation as specified in paragraph 87 (Project Participation Approval Authority); and

(5) Approval of the annual budget of the Authority as specified in Paragraph 14.13 (Budget).

14.10 BOARD MEMBERS.

a. Meetings. The Board shall hold at least one regular meeting each year, at which time the Board shall elect its officers as appropriate to comply with Paragraph 42.11 (Officers). The Board shall fix the date, hour, and place at which each regular meeting is to be held. To the extent practicable, each Board meeting shall be held in Northern Santa Clara County or Southern San Mateo County. The Chair presides at all meetings. A special meeting may be called upon written request by the Chair or at least one third of the Member Entities, two directors.

b. Brown Act. Each regular, adjourned regular, or special meeting of the Board shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act (Sections 54950, et seq., of the Government Code).

c. Minutes. The Secretary Clerk of the Board shall keep or have kept draft minutes of each regular and special meeting of the Board. As soon as possible after each meeting, the Secretary shall have a copy of those minutes forwarded to each member of the Board, which shall be considered for approval by the Board at a subsequent regular meeting.

d. Quorum. No business may be transacted by the Board without a quorum of members of the Board being present except that less than a quorum may adjourn from time to time. A quorum consists of a majority of the members of the Board.

e. Action of Board. Any action of the Board shall require a vote of a majority of the voting members of the Board.
12. **OFFICERS.**

a. **Officers.** The officers of the Authority are the Chair, Vice-Chair, and Secretary.

b. **Election/Term/Duties.** The officers shall be elected or appointed by the Board at its first meeting of the calendar year, unless that is delayed by an action of the Board. The term of office for Chair, Vice-Chair, and Secretary is one year. The officers shall assume the duties of their offices upon formation of the Authority or being elected or appointed, as appropriate. If either any of the Chair, Vice-Chair, or Secretary ceases to be a member of the Board, the resulting vacancy shall be filled or appoint a new officer at the next regular meeting of the Board held after the vacancy occurs.

c. **Compensation.** Officers are not entitled to compensation by the Authority. The Board may authorize reimbursement of expenses incurred by officers.

d. **Appointment/Contract.** The Board may appoint such officers and may hire or contract with such persons or firms as it considers necessary to carry out the purposes of this Agreement.

13. **FISCAL YEAR.** The first fiscal year of the Authority is July 1, 1999, through June 30, 2000. Each subsequent fiscal year of the Authority shall begin on July 1st and end on June 30th.

14. **BUDGET.** The Board shall adopt an annual operating budget, which shall include each Member Entity’s contribution separate from the Authority’s capital projects budget. The operating budget shall include the proposed contribution from each Member Entity for the fiscal year and other sources of income. The operating budget shall not be effective unless and until it is approved by the governing body of each Member Entity. Member Entity contributions shall become immediately due and payable to the Authority upon adoption of the budget, unless expressly provided otherwise in the budget.

15. **ANNUAL AUDIT AND AUDIT REPORTS.** The Board shall cause an annual financial audit to be made by an independent certified public accountant with respect to all Authority receipts, disbursements, other transactions, and entries into the books. A report of the financial audit shall be filed as a public record with each Member Entity. The audit shall be filed no later than as required by State law. The Authority shall pay the cost of the financial audit and charge the cost against the Member Entities from its annual operating budget in the same manner as other administrative costs.

16. **ESTABLISHMENT AND ADMINISTRATION OF FUNDS.**

a. **Accountability.** The Authority is responsible for the strict accountability of all funds and reports of all receipts and disbursements. It shall comply with every provision of law relating to the establishment and administration of funds, particularly Section 6505 of the California Government Code. The funds shall be accounted for on a full accrual basis.
b. **Investment/Disbursement.** The Authority shall receive and disburse funds only in accordance with policies and procedures established by the Board and in conformity with applicable law.

c. **Insurance/Bond.** The Authority shall require the Board to procure errors and omissions insurance or a fidelity bond, procure, carry and maintain, in full force and effect, at all times during the term of this Agreement, such insurance and bonds to protect the Authority and its members of the Board, officers, employees, agents and Member Entities, as deemed appropriate by the Board.

d. **Fiscal Agent.** The Authority shall designate a fiscal agent who shall be responsible for the administration of all funds and accounts. The fiscal agent may be one of the Member Entities or an officer or employee of one of the Member Entities, subject to the approval of the selected Member Entity. **Depository and Auditor Controller.** The Board shall designate one of its officers, employees or a third party to perform all acts required by Government Code Sections 6505 (regarding an annual audit), 6505.1 (regarding charge of and access to property), 6505.5 (regarding the depository and custodian of money), and 6505.6 (regarding independent audit where an officer or employee acts as treasurer, auditor or both), as such laws are amended from time to time.

17. **Administrative Cost.** In connection with preparation of the Annual Budget pursuant to Paragraph 14, above, the Board may establish the Administrative Costs of the Authority, if any, for each fiscal year and shall propose a formula for allocating these Administrative Costs among Member Entities for each fiscal year, which shall be approved by the Member Entities as a part of the budget.

18. **Withdrawal.** Member Entities may withdraw from the Authority for subsequent fiscal years by providing written notice to the Authority and each Member Entity on or before May 1 of any fiscal year. Withdrawal shall be effective on July 1 of the next fiscal year. This shall be the exclusive means by which a Member Entity may withdraw from the Authority. Any Member Entity that withdraws shall remain liable for any budget contributions or capital improvement project participation approved before withdrawal. Any Member Entity that withdraws shall remain liable for any and all demands, claims, or liabilities of any nature, including death or injury to any person, property damage, or any other loss caused by or arising out of that party’s performance or failure to perform the obligations assumed before the Member Entity withdraws from this Agreement. Any Member Entity that withdraws shall remain subject to the provisions of Paragraph 2523 (Liability of the Authority; Release and Indemnity) with respect to any event or occurrence taking place before the Member Entity withdraws.

19. **Expulsion.** The Authority may expel a Member Entity from the Authority by a three-fourths (3/4) vote of the Board of Directors for a breach of this Agreement determined by the Board to be a material breach. Any Member Entity that has been expelled pursuant to this paragraph shall have no further liability or obligation pursuant to this Agreement after the effective date of such expulsion; except such Member Entity shall remain liable for any and all demands, claims, or liabilities of any nature, including death or injury to any person, property damage, or any other loss caused by or arising out of that party’s performance or failure to perform the obligations assumed before the Member Entity was expelled, including any budget
contributions or capital improvement project participation approved before expulsion. Any Member Entity that has been expelled shall remain subject to the provisions of Paragraph 25 (Liability of the Authority; Release and Indemnity) with respect to any event or occurrence taking place before the Member Entity was expelled.

20-18. TERMINATION AND DISTRIBUTION.

a. Termination. This Agreement shall continue until terminated. This Agreement may be terminated by the written consent of two-thirds four-fifths (24/35) of the Member Entities; provided, however, this Agreement and the Authority shall continue to exist after termination for the purpose of disposing of all claims, distribution of assets, and all other functions necessary to conclude the obligation and affairs of the Authority.

b. Surplus. After completion of In the event that the Authority’s purposes is terminated, any surplus money on deposit in any fund or account of the Authority shall be returned in proportion to the contributions made as required by Section 6512 of the California Government Code. The Board is vested with all powers of the Authority for the purpose of concluding and dissolving the business affairs of the Authority, including for the disposition, division, or distribution of any property acquired as a result of the joint exercise of powers.

24-19. NOTICES. Notices to each Member Entity under this Agreement are sufficient if mailed to its respective address on file with the Authority.

22-20. PROHIBITION AGAINST ASSIGNMENT. No Member Entity may assign a right, claim, or interest it may have under this Agreement, and any such assignment shall be void. No creditor, assignee, or third-party beneficiary of a Member Entity has a right, claim, or title to any part, share, interest, fund, or asset of the Authority.

23-21. AMENDMENTS. This Agreement may be amended by a unanimous vote of the Member Entities of the Authority acting through their approval by the governing bodies for each and every Member Entity. A proposed amendment must be submitted to each Member Entity at least thirty (30) days in advance of the date when the Member Entity considers it. An amendment is to be effective immediately unless otherwise designated.

24-22. SEVERABILITY. If a portion, term, condition, or provision of this Agreement is determined by a court to be illegal or in conflict with the law of the State of California, or is otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions, and provisions is not affected.

25-23. LIABILITY OF THE AUTHORITY; RELEASE AND INDEMNITY. Funds of the Authority may be used to defend, indemnify, and hold harmless the Authority, any Member Entity, any member of the Board, and each officer, employee and agent of the Authority for their actions taken within the scope of their duties while acting on behalf of the Authority. The parties to this Agreement release each other and agree to hold each other harmless, as well as their officers and employees, for any loss or liability arising from their respective activities pursuant to this Agreement. Except as otherwise provided herein, each party agrees to indemnify, defend and hold harmless the other parties, their officers, agents, and employees from any and all demands, claims, or liabilities of any nature, including death or injury to any person, property damage, or any
other loss caused by or arising out of that party’s performance or failure to perform the obligations assumed under this Agreement. Each Member Entity agrees that legal counsel for any Member Entity may be designated by the Board to represent the Authority by performing legal services, including litigation, and that any potential conflict of interest arising from such representation shall be deemed waived by the Authority and Member Entity, unless an actual adverse relationship exists between the Member Entity and the Authority with respect to the particular matter. The designation of legal counsel from a Member Entity shall be with the approval of that Member Entity.

26.24. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

27.25. COUNTERPART. This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one instrument.

28.26. AGREEMENT COMPLETE. The foregoing constitutes the full and complete Agreement of the Member Entities. There are no oral understandings or agreements not set forth in writing herein.

27. NO THIRD-PARTY BENEFICIARIES. Nothing in this Agreement, whether express or implied, shall be construed to give any person or entity, other than the parties hereto, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions or provisions contained herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below.

DATED: _________________, 20042020  CITY OF MENLO PARK

By: ________________________________
    Cecilia Taylor, Mayor

ATTEST:

By: ________________________________
    Judi Herren, City Clerk

DATED: _________________, 20042020  CITY OF PALO ALTO

By: ________________________________
    Adrian Fine, Mayor

ATTEST:
By: ________________________________

Beth Minor, City Clerk
DATED: ____________________, 2004

CITY OF EAST PALO ALTO

By: ________________________________
Regina Wallace-Jones, Mayor

ATTEST:

By: ________________________________
Walfred Solorzano, City Clerk

DATED: ____________________, 2004

SANTA CLARA VALLEY WATER DISTRICT

By: ________________________________
(Signature) Nai Hsueh, Chair

________________________________
(Print Title)

ATTEST:

By: ________________________________
Secretary Michele L King, CMC, Board Clerk

DATED: ____________________, 2004

SAN MATEO COUNTY FLOOD CONTROL AND SEA LEVEL RISE RESILIENCY DISTRICT

By: ________________________________
Board Dave Pine, Chair

ATTEST:

By: ________________________________
Secretary Christine Boland, Interim Board Clerk
Summary Title: Amendment to Contract C16162436 and Contract C16163381

Title: Approval of Amendment Number 1 to Contract C16162436 With TJKM Transportation Consultants and Amendment Number 1 to Contract Number C16163381 With Fehr and Peers for Provision of On-call Transportation Engineering Project Support Services; Each Amendment will Extend Each Term Through April 30, 2021 and Increase Maximum Compensation by $200,000 to Each Contract for a Total Not-to-Exceed Amount of $1,000,000 per Contract

From: City Manager

Lead Department: Transportation Department

Recommendation
Staff recommends that Council approve and authorize the City Manager to execute:

1. Amendment One to Contract C16162436 with TJKM Transportation Consultants (Attachment A) for the provision of On-Call Transportation Engineering Project Support Services to extend the term for one additional year through April 30, 2021 and increase maximum compensation by $200,000 for a total not-to-exceed amount of $1,000,000

2. Amendment One to Contract C16163381 with Fehr & Peers (Attachment B) for provision of On-Call Transportation Engineering Project Support Services to extend the term for one additional year through April 30, 2021 and increase maximum compensation by $200,000 for a total not-to-exceed amount of $1,000,000.

Background
In April 2016, Council approved a four-year contract with TJKM Transportation Consultants in the amount of $800,000 for Transportation Engineering Project Support Services, Transportation Engineering Staff Resources, and Bicycle + Pedestrian Transportation Plan Staff Resource services and with Fehr & Peers in the amount of $800,000 for Transportation Engineering Project Support Services, Transportation Engineering Staff Resources, and Bicycle + Pedestrian Transportation Plan Staff Resources.
Click on the link below for the award of contracts to TJKM and Fehr & Peers.  
https://www.cityofpaloalto.org/civicax/filebank/documents/51830

Discussion
The contract for the on-call transportation engineering and planning services provides project support services, supplement city transportation staff and assist with the implementation and evaluation of the Palo Alto Bicycle + Pedestrian Transportation Plan and other transportation capital projects and work requests.

Staff is requesting that Council approve the attached amendments extending the term of the existing contracts for another year through April 30, 2021 and adding $200,000 per contract, $400,000 total. Currently, there are multiple high priority transportation projects underway with both consultants. One such example of an on-going project is the San Antonio/Charleston Intersection Improvements Project. Concept plans for this project were approved by City Council in February 2020 and staff has been directed to proceed with the development of final design plans, specifications, estimates and construction documents. Staff anticipates the work for this project will cost approximately $150,000.
Below is a table showing some of the projects undertaken under these two contracts over the last four years:

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Contract Number</th>
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<tbody>
<tr>
<td>Traffic Signal warrant analysis for five locations (PL-05030)</td>
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<td>Operational Analysis and Design modification for Quarry/Welch intersection (PL-16000)</td>
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<tr>
<td>School Speed Limit Signage Layout Plans</td>
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<tr>
<td>Crescent Park Neighborhood Traffic Calming Project (PL-12000)</td>
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<tr>
<td>Traffic Signal Improvement at Alma Street &amp; Meadow Drive (PL-05030)</td>
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<tr>
<td>3895 Fabian Way. Mid-block Crosswalk Improvements (PL-12000)</td>
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<tr>
<td>Hillview/Hanover Striping Modification (PL-12000)</td>
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<tr>
<td>Everett Avenue &amp; Alma street pedestrian flashing beacon (PL-05030)</td>
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<tr>
<td>Bike Boulevard Modifications - Ross/Meadow, Louis/Amarillo/Moreno plans</td>
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The scope of each contract remains the same; however, approximately $250,000 of additional funding is requested in anticipation of additional transportation projects that may arise from the Transportation Work Plan (CMR 10692), which was adopted in October 2019. Specific projects will be identified and prioritized based on the Transportation Work Plan and considerations such as traffic safety, operations, and community requests. The nature of these on-call contracts is to provide flexible, adaptable support to high priority projects as they are identified, and the amount of $200,000 per contract for the amendment was determined based on the historical usage of these contracts. Each year approximately $200,000 was spent per contract on various transportation-focused projects and engineering support services.

In early 2021, City intends to release a Request for Proposal (RFP) for future transportation engineering and planning services. A new consultant, identified through a solicitation and selection process will begin the term with the City effective May 1, 2021.

**Policy Implications**

The City’s Comprehensive Plan recommends that the City strive to accommodate all modes of travel in its street system. These contract amendments are consistent with the following goals and policies:

**Goal T-3:** Facilities, Services and Programs that encourage and promote walking and bicycling.

**Goal T-4:** An efficient Roadway Network is provided for all users, including motor vehicles, transit vehicles, bicyclists and pedestrians

**Program T-18:** Develop and periodically update a comprehensive bicycle plan.
Policy T-14: Improve pedestrian and bicycle access to and between local destination, including public facilities, schools, parks, open space, employment districts, shopping Centers and multi modal transit stations.

Policy T-29: Make effective use of the traffic carrying ability of Palo Alto’s major street network without compromising the need of pedestrians and bicyclists also using this network.

Resource Impact
Funding is available in the Fiscal Year 2020 Adopted Operating and Capital Budgets for the additional $400,000 in contract authority requested in this report. The funding is available in the following existing projects and programs: $1,578 in PL-00026 (Safe Routes to School), $146,355.14 in PL-04010 (Bicycle & Pedestrian Transportation Plan – Implementation Project), $29,054.22 in PL-05030 (Traffic Signal and ITS upgrade), $127,263.81 in PL-12000 (Parking & Transportation Improvements), $8,120.08 in PL-15001 (Embarcadero Road at El Camino Improvements), $19,419.32 in PL-16000 (Quarry Road Improvements and Transit Center Access), and $33,021.67 in PL-18000 (El Camino Real Pedestrian Safety and Streetscape Project), and $35,187.76 in the Office of Transportation’s operating budget. Funding in Fiscal Year 2021 is subject to Council approval through the annual budget process.

This contract is on the City’s professional services contract template, which permits the City to terminate without cause/for convenience by providing written notice to the contractor. In the event the City finds itself facing a challenging budget situation, and it is determined that City resources need to be refocused elsewhere, the City can terminate for convenience. Other options include termination due to non-appropriation of funds or amending the contract to reduce the cost, for example, by reducing the scope of work.

Timeline
During this one additional year period, staff will issue an RFP for a new on-call contract for Transportation Engineering Project Support Services, Transportation Engineering Staff Resources, and Bicycle + Pedestrian Transportation Plan Staff Resources.

Staff will continue to work with each consultant to complete all current projects underway before the term of the contract expires in April 2021. Staff will also continue to issue new task orders to TJKM and Fehr & Peers as required.

Environmental Review
Approval of these contract amendments is exempt from environmental review under the California Environmental Quality Act (CEQA) because it can be seen with certainty that the contract amendment approval will not have a significant effect on the environment. Additional environmental review may be required and will be completed as necessary for specific projects
utilizing consultant services under these contracts.

**Stakeholder Engagement**
Stakeholder engagement beyond City Staff was not included as this contract will supplement current staff efforts. Project-specific stakeholder engagement will occur separately as part of specific projects.

**Attachments:**
- **Attachment8.a:** Attachment A: Amendment #1 C16162436 TJKM  (PDF)
- **Attachment8.b:** Attachment B: Amendment #1 C16163381 - Fehr & Peers (PDF)
AMENDMENT NO. 1 TO CONTRACT NO. C16162436
BETWEEN THE CITY OF PALO ALTO AND
TJKM TRANSPORTATION CONSULTANTS

This Amendment No. 1 (this “Amendment”) to Contract No. C16162436 (the “Contract” as defined below) is entered into as of        , 2020, by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and TJKM TRANSPORTATION CONSULTANTS, a California corporation, located at 4305 Hacienda Drive, Suite 550, Pleasanton CA 94588 (“CONSULTANT”). CITY and CONSULTANT are referred to collectively as the “Parties” in this Amendment.

RECITALS

A. The Contract (as defined below) was entered into by and between the Parties hereto for the provision of on-call transportation engineering services, as detailed therein.

B. The Parties now wish to amend the Contract in order to extend the term and increase compensation by $200,000.00 from $800,000.00 to $1,000,000.00 for continuation of services per Exhibit “A” Scope of Services.

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and provisions of this Amendment, the Parties agree:

SECTION 1. Definitions. The following definitions shall apply to this Amendment:


b. Other Terms. Capitalized terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Contract.

SECTION 2. Section 2 “TERM” of the Contract is hereby amended to read as follows:

“SECTION 2. TERM.
The term of this Agreement shall be from the date of its full execution through April 30, 2021 unless terminated earlier pursuant to Section 19 of this Agreement.”

SECTION 3. Section 4 “NOT TO EXCEED COMPENSATION” of the Contract is hereby amended to read as follows:
“SECTION 4. NOT TO EXCEED COMPENSATION. The compensation to be paid to CONSULTANT for performance of the Services described in Exhibit “A”, including both payment for professional services and reimbursable expenses, shall not exceed One Million Dollars ($1,000,000.00). The applicable rates and schedule of payment are set out at Exhibit “C-1”, entitled “HOURLY RATE SCHEDULE,” which is attached to and made a part of this Agreement.

Additional Services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit “C”. CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not included within the Scope of Services described at Exhibit “A”.”

SECTION 4. Legal Effect. Except as modified by this Amendment, all other provisions of the Contract, including any exhibits thereto, shall remain in full force and effect.

SECTION 5. Incorporation of Recitals. The recitals set forth above are terms of this Amendment and are fully incorporated herein by this reference.

(SIGNATURE BLOCK FOLLOWS ON THE NEXT PAGE.)
SIGNATURES OF THE PARTIES

IN WITNESS WHEREOF, the Parties have by their duly authorized representatives executed this Amendment effective as of the date first above written.

CITY OF PALO ALTO

City Manager

APPROVED AS TO FORM:

City Attorney or designee

TJKM TRANSPORTATION CONSULTANTS

By: Nayan Amin
Name: Nayan Amin
Title: President

DocuSign Envelope ID: 09342771-5176-4ABE-8B00-297478FB4E8A
Certificate Of Completion

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Status: Completed
Subject: Please DocuSign: Amendment #1 C16162436 TJKM - legal reviewed.pdf

Source Envelope:
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Certificate Pages: 2
AutoNav: Enabled
Enveloped Stamping: Enabled
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Envelope Originator:
250 Hamilton Ave
Palo Alto, CA 94301
Terry.Loo@CityofPaloAlto.org
IP Address: 199.33.32.254

Record Tracking

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Terry.Loo@CityofPaloAlto.org
Location: DocuSign

Security Appliance Status: Connected
Pool: StateLocal

Storage Appliance Status: Connected
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Location: DocuSign

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Ruchika Aggarwal
Ruchika.Aggarwal@CityofPaloAlto.org
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Electronic Record and Signature Disclosure:
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Management Analyst
City of Palo Alto
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Packet Pg. 194
AMENDMENT NO. 1 TO CONTRACT NO. C16163381
BETWEEN THE CITY OF PALO ALTO AND
FEHR & PEERS

This Amendment No. 1 (this “Amendment”) to Contract No. C16163381 (the “Contract” as defined below) is entered into as of , 2020, by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and FEHR & PEERS, a California corporation, located at 675 W. Santa Clara Street, Suite 675, San Jose CA 95136 (“CONSULTANT”). CITY and CONSULTANT are referred to collectively as the “Parties” in this Amendment.

R E C I T A L S

A. The Contract (as defined below) was entered into by and between the Parties hereto for the provision of on-call transportation engineering services, as detailed therein.

B. The Parties now wish to amend the Contract in order to extend the term and increase compensation by $200,000.00 from $800,000.00 to $1,000,000.00 for continuation of services per Exhibit “A” Scope of Services.

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and provisions of this Amendment, the Parties agree:

SECTION 1. Definitions. The following definitions shall apply to this Amendment:


b. Other Terms. Capitalized terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Contract.

SECTION 2. Section 2 “TERM” of the Contract is hereby amended to read as follows:

“SECTION 2. TERM.
The term of this Agreement shall be from the date of its full execution through April 17, 2021 unless terminated earlier pursuant to Section 19 of this Agreement.”

SECTION 3. Section 4 “NOT TO EXCEED COMPENSATION” of the Contract is hereby amended to read as follows:

“SECTION 4. NOT TO EXCEED COMPENSATION. The compensation to be paid to CONSULTANT for performance of the Services described in Exhibit “A”, including
both payment for professional services and reimbursable expenses, shall not exceed One Million Dollars ($1,000,000.00). The applicable rates and schedule of payment are set out at Exhibit “C-1”, entitled “HOURLY RATE SCHEDULE,” which is attached to and made a part of this Agreement.

Additional Services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit “C”. CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not included within the Scope of Services described at Exhibit “A”.”

SECTION 4. The following exhibit(s) to the Contract is/are hereby amended or added, as indicated below, to read as set forth in the attachment(s) to this Amendment, which is/are hereby incorporated in full into this Amendment and into the Contract by this reference:

a. Exhibit “C-1” entitled “HOURLY RATE SCHEDULE”, AMENDED, REPLACES PREVIOUS.

SECTION 5. Legal Effect. Except as modified by this Amendment, all other provisions of the Contract, including any exhibits thereto, shall remain in full force and effect.

SECTION 6. Incorporation of Recitals. The recitals set forth above are terms of this Amendment and are fully incorporated herein by this reference.

(SIGNATURE BLOCK FOLLOWS ON THE NEXT PAGE.)
SIGNATURES OF THE PARTIES

IN WITNESS WHEREOF, the Parties have by their duly authorized representatives executed this Amendment effective as of the date first above written.

CITY OF PALO ALTO

City Manager APPROVED

AS TO FORM:

City Attorney or designee

Attachments:

EXHIBIT “C-1”: SCHEDULE OF RATES, AMENDED
EXHIBIT “C-1”
SCHEDULE OF RATES
(The rates in Exhibit C-1 shall apply for work on or after the date of full execution of Amendment 1 to this Agreement. The terms of the Agreement shall take precedence over any conflicting terms in this Exhibit C-1.)

2019 to 2020 personnel new hourly rate

<table>
<thead>
<tr>
<th>Fehr &amp; Peers Staff</th>
<th>Project Role/Labor Category</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matt Haynes</td>
<td>Principal-In-charge</td>
<td>$310</td>
</tr>
<tr>
<td>Robert Eckols</td>
<td>Principal</td>
<td>$310</td>
</tr>
<tr>
<td>Steve Davis</td>
<td>Project Manager/Associate</td>
<td>$235</td>
</tr>
<tr>
<td>Sarah Peters</td>
<td>Associate</td>
<td>$170</td>
</tr>
<tr>
<td>Ashley Brooks</td>
<td>Senior Engineer</td>
<td>$210</td>
</tr>
<tr>
<td>David Wasserman</td>
<td>Planner</td>
<td>$155</td>
</tr>
<tr>
<td>Debbie Doolan</td>
<td>CAD Specialist</td>
<td>$165</td>
</tr>
<tr>
<td>Ryan McClain</td>
<td>Pedestrian &amp; Bicycle Expert/Principal</td>
<td>$270</td>
</tr>
<tr>
<td>Suzanne Luckjiff</td>
<td>Design Expert/Associate</td>
<td>$250</td>
</tr>
</tbody>
</table>

**Subcontractor: Mark Thomas Staff**

| Matt Stringer | Project Survey Lead | $283 |

**Subcontractor: Callander Associates Staff**

| Marie Mai      | Project Manager     | $210 |
| Brian Fletcher | Principal           | $210 |
### 2019-2020 (July 2019 through June 2020)

**Hourly Billing Rates**

<table>
<thead>
<tr>
<th>Classification</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$215.00 - $350.00</td>
</tr>
<tr>
<td>Senior Associate</td>
<td>$180.00 - $340.00</td>
</tr>
<tr>
<td>Associate</td>
<td>$155.00 - $250.00</td>
</tr>
<tr>
<td>Senior Engineer/Planner</td>
<td>$130.00 - $210.00</td>
</tr>
<tr>
<td>Engineer/Planner</td>
<td>$120.00 - $170.00</td>
</tr>
<tr>
<td>Senior Engineering Technician</td>
<td>$145.00 - $195.00</td>
</tr>
<tr>
<td>Senior Project Accountant</td>
<td>$160.00 - $165.00</td>
</tr>
<tr>
<td>Senior Project Coordinator</td>
<td>$120.00 - $165.00</td>
</tr>
<tr>
<td>Project Coordinator</td>
<td>$110.00 - $155.00</td>
</tr>
<tr>
<td>Technician</td>
<td>$125.00 - $165.00</td>
</tr>
<tr>
<td>Intern</td>
<td>$90.00 - $105.00</td>
</tr>
</tbody>
</table>

- Other Direct Costs / Reimbursable expenses are invoiced at cost plus 10% for handling.
- Personal auto mileage is reimbursed at the then current IRS approved rate (58 cents per mile as of Jan 2019).
- Voice & Data Communications (Telephone, fax, computer, e-mail, etc.) are invoiced at cost as a percentage of project labor.

_Fehr & Peers reserves the right to change these rates at any time with or without advance notice._
EXHIBIT A
Mark Thomas & Company, Inc. Rate Schedule
Expires June 30, 2020*

## HOURLY CHARGE RATE RANGES

### Engineering Services
- **Intern** $48 - $84
- **Technician** $77 - $126
- **Design Engineer I** $92 - $136
- **Sr. Technician** $115 - $161
- **Design Engineer II** $124 - $160
- **Project Engineer** $145 - $178
- **Sr. Project Engineer** $162 - $210
- **Sr. Technical Engineer** $162 - $210
- **Project Manager** $191 - $240
- **Technical Lead** $191 - $240
- **Sr. Project Manager** $218 - $282
- **Sr. Technical Lead** $218 - $210
- **Engineering Manager** $282 - $347
- **Practice Area Leader** $282 - $347
- **Sr. Engineering Manager** $316 - $424
- **Principal** $399 - $474

### Survey Services
- **Survey Intern** $53 - $97
- **Survey Technician** $95 - $125
- **Sr. Survey Technician** $93 - $157
- **Surveyor** $112 - $138
- **Sr. Surveyor** $128 - $182
- **Lead Survey Technician** $147 - $175
- **Project Surveyor** $155 - $189
- **Sr. Project Surveyor** $175 - $207
- **Survey Manager** $188 - $232
- **Sr. Survey Manager** $207 - $255
- **Survey Division Manager** $271 - $323
- **Single Chief** $144 - $176
- **Single Instrumentman** $130 - $150
- **Single Chainman** $125 - $142
- **Party Apprentice** $62 - $130
- **1 Person Field Crew** $144 - $196
- **2 Person Field Crew** $268 - $352
- **3 Person Field Crew** $330 - $494

### Urban Planning/Landscape Architecture Services
- **Intern** $48 - $84
- **Landscape Designer** $80 - $158
- **Landscape Architect** $112 - $200
- **LAUD Project Manager** $182 - $214
- **Sr. LAUD Project Manager** $195 - $253
- **LAUD Division Manager** $230 - $281
- **Sr. LAUD Division Manager** $255 - $298

### District Management Services
- **Inspector - Apprentice** $64 - $98
- **Inspector** $96 - $133
- **Sr. Inspector** $121 - $154
- **Assistant Sanitary Engineer** $140 - $168
- **Associate Sanitary Engineer** $153 - $203
- **Deputy District Manager** $303 - $354

### Construction Management Services
- **ARE/Construction Inspector** $165
- **Resident Engineer** $245

### Special Services
- **Expert Witness** $420
- **Strategic Consulting** $420

### Project Support/Coordination Services
- **Project Assistant** $64 - $98
- **Technical Writer** $64 - $102
- **Sr. Project Assistant** $89 - $123
- **Project Coordinator** $89 - $126
- **Graphic Designer** $99 - $130
- **Sr. Technical Writer** $92 - $147
- **Project Accountant** $102 - $140
- **Sr. Project Coordinator** $115 - $158
- **Sr. Graphic Designer** $118 - $165
- **Sr. Project Accountant** $128 - $172
- **Sr. Graphic Manager** $150 - $175

### Grant Writing Services
- **Funding Specialist** $130
- **Sr. Funding Specialist** $160

### Other Direct Costs
- **Reimbursables including, but not limited to:**
  - Reproductions, Delivery and Filing Fees: Cost Plus 5%
  - Mileage: Per IRS Rate
  - Outside Consultant Fees: Cost Plus 5%
  - Survey Field Expenses: Cost Plus 5%

*Rates subject to escalation with new hourly rate schedule as of July 1, 2020
Standard Schedule of Compensation 2020 San Jose & Burlingame

General

The following list of fees and reimbursable expense items shall be used in the provision of services described in the agreement. These amounts shall be adjusted in January, upon issuance of an updated Standard Schedule of Compensation:

Hourly Rates

<table>
<thead>
<tr>
<th>Position</th>
<th>Rate (Hour)</th>
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<tr>
<td>Principal</td>
<td>$210/hour</td>
</tr>
<tr>
<td>Senior Associate</td>
<td>$192/hour</td>
</tr>
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<td>Associate</td>
<td>$182/hour</td>
</tr>
<tr>
<td>Construction Manager</td>
<td>$161/hour</td>
</tr>
<tr>
<td>Senior Project Manager</td>
<td>$165/hour</td>
</tr>
<tr>
<td>Project Manager 1</td>
<td>$158/hour</td>
</tr>
<tr>
<td>Project Manager 2</td>
<td>$149/hour</td>
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<tr>
<td>Job Captain</td>
<td>$138/hour</td>
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<tr>
<td>Designer 1</td>
<td>$130/hour</td>
</tr>
<tr>
<td>Designer 2</td>
<td>$118/hour</td>
</tr>
<tr>
<td>Assistant Designer</td>
<td>$105/hour</td>
</tr>
<tr>
<td>Accounting</td>
<td>$160/hour</td>
</tr>
<tr>
<td>Senior Project Administrator</td>
<td>$121/hour</td>
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<tr>
<td>Project Administrator</td>
<td>$108/hour</td>
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Reimbursable Expenses Rates

<table>
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<tr>
<th>Expenses</th>
<th>Rate</th>
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<tbody>
<tr>
<td>printing and reproductions, postage and delivery, mileage, travel expenses (hotel / food), testing and outside services, and other project related expenses</td>
<td>cost + 15%</td>
</tr>
<tr>
<td>Sub consultant Administration</td>
<td>cost + 10%</td>
</tr>
<tr>
<td>Communications and Insurance Surcharge</td>
<td>2.5% of total fees</td>
</tr>
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Payments

Payments are due within ten days after monthly billing. Callander Associates reserves the right to suspend services for non-payment if payment is not received within a period of 60 days after invoice date. Additionally invoices 60 days past due are subject to a 1.5% per month interest charge. Retainer amounts, if indicated, are due upon signing the agreement and shall be applied to the final invoice for the project.
**Certificate Of Completion**

Envelope Id: AD8A59C74A31468398BC3AEA77F2AEBF  
Status: Completed  
Subject: Please DocuSign: Amendment #1 C16163381 - Legal Reviewed.pdf  
Source Envelope:

| Document Pages: 7 | Signatures: 1 | Envelope Originator: 
|-------------------|--------------|----------------------|
| Certificate Pages: 2 | Initials: 0 | Terry Loo 
| AutoNav: Enabled | | 250 Hamilton Ave 
| Envelope Stamping: Enabled | | Palo Alto, CA 94301 
| Time Zone: (UTC-08:00) Pacific Time (US & Canada) | | Terry.Loo@CityofPaloAlto.org 
| | | IP Address: 199.33.32.254 

**Record Tracking**

| Status: Original | Holder: Terry Loo | Location: DocuSign 
|------------------|-------------------|----------------------|
| 3/27/2020 4:03:44 PM | Terry.Loo@CityofPaloAlto.org | Location: DocuSign 
| Security Appliance Status: Connected | Pool: StateLocal | 
| Storage Appliance Status: Connected | Pool: City of Palo Alto | 

**Signer Events**

| Matthew Haynes | Signature Adoption: Pre-selected Style | Viewed: 3/27/2020 4:11:51 PM 
|----------------|--------------------------------------|----------------------|
| m.haynes@fehrandpeers.com | Using IP Address: 66.74.18.222 | Signed: 3/27/2020 4:52:15 PM 
| President | Fehr and Peers | 
| Security Level: Email, Account Authentication (None) | 

**Electronic Record and Signature Disclosure:** 
Not Offered via DocuSign

**In Person Signer Events**

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**Agent Delivery Events**

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**Intermediary Delivery Events**

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**Certified Delivery Events**

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**Carbon Copy Events**

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<td>Management Analyst</td>
<td>City of Palo Alto</td>
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**Witness Events**

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**Packet Pg. 202**
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<td>Envelope Summary Events</td>
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<td>Timestamps</td>
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</table>

<table>
<thead>
<tr>
<th>Payment Events</th>
<th>Status</th>
<th>Timestamps</th>
</tr>
</thead>
</table>
Summary Title: Planning & Building Permit Extensions

Title: Adoption of an Ordinance Temporarily Suspending the Expiration of and Automatically Extending all Planning Entitlements, Building Permits, and Building Permit Applications Valid as of March 16, 2020. The Ordinance Also Suspends and Extends Municipal Code Application Processing Timelines. This Action is Exempt From the California Environmental Quality Act (CEQA) in Accordance with CEQA Guidelines Section 15061(b)(3).

From: City Manager

Lead Department: Planning and Development Services

Recommendation

Staff recommends that Council adopt the attached ordinance that:

1. Temporarily suspends the expiration all planning entitlements, building permits, and building permit applications valid as of March 16, 2020, or issued during applicable shelter in place order;
2. Automatically extends the expiration date of planning entitlements, building permits, and building permit applications for 180 days following the cessation of any applicable shelter in place order; and,
3. Suspends municipal code application processing timelines during and for 180 days following any applicable shelter in place order.

Background and Discussion

As highlighted on April 6, staff recommends the City Council adopt the attached ordinance. The ordinance extends various planning entitlements and building permits that were valid at the time Santa Clara County issued a public health order requiring residents to shelter in place. This order limited construction activity and the ability of applicants to continue moving their previously approved projects toward completion. The attached ordinance temporarily suspends the expiration of any entitlement or permit through the duration of any applicable State or County shelter in place orders. Moreover, the ordinance recognizes that it may take applicants
time to re-engage their project teams and construction crews, or secure funding for their projects; an additional 180-day extension would automatically be applied to these entitlements and permits. This ordinance does not extend or re-activate planning entitlements or building permits that lapsed prior to the start of the County’s Shelter in Place order.

Lastly, the ordinance suspends the application certain processing time provisions in the municipal code. These provisions relate to making determinations on planning applications or scheduling items for hearing before the Architectural Review Board, Planning and Transportation Commission, and City Council. Staff will continue to make every effort to efficiently process applications and will ensure compliance with any state or federal law that requires more timely action. We are also working on solutions that will allow the public to submit more applications online and allow city staff and contractors to review plans, comment and, when appropriate, expand they types of permits that can be offered online.

**Policy Implications**
State and local jurisdictions are beginning to take similar actions to preserve the rights of applicants that have previously obtained planning entitlements and building permits; the subject ordinance is aligned with those other efforts. It is anticipated other jurisdictions will do the same. This action will extend to all active planning entitlements (not yet built), including entitlements that are granted during the Shelter-in-Place order, and active building permits (starting or under construction). This ordinance applies to all private and public projects for new buildings, remodels, land uses, wireless communication facilities, even construction projects that have stalled or taken longer than expected, but retain valid permits.

**Resource Impact**
This action has no significant budget or fiscal impact.

**Timeline**
If approved by Council, the ordinance would return for a second reading in May and become effective on the 31st day thereafter. However, the ordinance will reach back to March 16, 2020.

**Stakeholder Engagement**
Staff has received inquiries from local property owners and applicants asking about the status of their permits. Staff has also been engaged with other communities discussing similar actions.

**Environmental Review**
This action is exempt from the California Environmental Quality Act (CEQA) in accordance with section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that temporarily extending certain permit approvals and application processing timelines for a limited period of time will not have a significant effect on the environment.
Attachments:

Attachment 9.a: Attachment A - ORD Extending Permit Length (PDF)
Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Extending the Validity of Planning Entitlements and Permits Issued by the Department of Planning and Development Services and Extending the Time for City Review and Action on Development Applications.

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and declarations. The City Council finds and declares as follows:


B. On March 9, 2020, Santa Clara County reported there were 43 cases of persons testing positive for COVID-19, an increase of 23 confirmed cases in 5 days. The County also experienced its first death due to the virus. Due to the increased threat and evidence of community transmission of the virus, the County Public Health Officer issued an order prohibiting mass gatherings attended by 1,000 persons until March 31, 2020.

C. On March 12, 2020, due to the escalating increase in cases and community spread of COVID-19 in Santa Clara County, City Manager Ed Shikada, acting as the Director of Emergency Services, issued a Proclamation of Local Emergency. The City Council ratified the issuance of the proclamation on March 16, 2020.

D. On March 13, 2020, the County Public Health Officer issued a new order mandating a countywide moratorium on gatherings of more than 100 persons and a conditional countywide moratorium on gatherings between 35-100 persons. Most school districts throughout the San Francisco Bay Area also announced closures for three weeks commencing the following week on March 16, 2020.

E. On March 15, 2020, Governor Newsom directed the closing of all bars, nightclubs, brewpubs, and wineries in the state, and called for residents age 65 and older to self-isolate, to increase social distancing and protect persons most vulnerable to COVID-19. At the same time, he emphasized the plight of the thousands of unsheltered persons in the state as a top public health concern.

F. On March 16, 2020, the public health officers for the six Bay Area counties, including Santa Clara County, took the unprecedented and dramatic step of issuing “shelter-in-place” orders directing county residents to shelter at home for three weeks beginning March 17. The Order limited activity, travel, and business functions to only the most essential needs. In particular, the Order allowed some residential construction to continue, but required most commercial construction to cease.
G. On March 31, 2020, the public health officers for the six Bay Area counties, including Santa Clara County, issued an updated “shelter-in-place” order effective from April 1, 2020 through May 3, 2020 (the “Shelter-in-Place Order” or “Order”). The Order further prohibited most residential and almost all commercial construction.

H. In an effort to reduce the spread of COVID-19, the City has cancelled several meetings of the City Council and other City Boards and Commissions in March and April 2020.

I. The Order and other efforts to slow the spread of COVID-19 have resulted in the delay or cessation of land use development activity and permit processing, effectively shortening the validity of planning entitlements and building permits.

J. The City Council finds that it is necessary for the public health, safety, and welfare to temporarily extend the validity of certain planning entitlements and other permits issued by the Department of Planning and Development Services and to extend the time provided for City review of and action on such applications.

SECTION 2. Notwithstanding the provisions of Palo Alto Municipal Code (“PAMC”) Sections 16.04.085 and 16.04.090, the following permit applications and permits issued by the Chief Building Official pursuant to PAMC Chapter 16.04 are hereby extended until the Shelter-in-Place Order is lifted, plus an additional 180 days: (1) any permit application or permit that had not expired as of March 16, 2020; and (2) any permit application submitted or permit issued during the pendency of the Shelter-in-Place Order. This extension shall be provided automatically and at no cost to a project applicant.

SECTION 3. Notwithstanding the provisions of PAMC Section 18.77.090 and any Record of Land Use Action or Final Director’s Decision, the time to commence construction for the following Planning Approvals is hereby extended until the Shelter-in-Place Order is lifted, plus an additional 180 days: (1) Planning Approvals for which the time to commence construction had not expired as of March 16, 2020; and (2) Planning Approvals issued during the pendency of the Shelter-in-Place Order. This extension shall be provided automatically and at no cost to a project applicant.

SECTION 4. The times established in the Municipal Code for the City to act on any application pursuant to PAMC Titles 16, 18, or 20, including without limitation, Building Permits, Architectural Review, Standard Staff Review, Low Density Project Review, and Subdivisions, are hereby extended until the Shelter-in-Place Order is lifted, plus an additional 180 days. This extension shall be applied in a manner consistent with timelines dictated by state law, including any emergency orders issued by the Governor.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each
and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 6.** The City Council finds that adoption of this ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that temporarily extending certain permit approvals and application processing timelines for a limited period of time will not have a significant effect on the environment.

**SECTION 7.** This Ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

____________________________     ____________________________
City Clerk       Mayor

APPROVED AS TO FORM:     APPROVED:

____________________________     ____________________________
Assistant City Attorney     City Manager

____________________________
Director of Planning & Development Services
City of Palo Alto
City Council Staff Report

Report Type: Action Items
Meeting Date: 4/20/2020

Council Priority: Fiscal Sustainability

Summary Title: BRC Fee Waiver Resolution

Title: Adoption of a Resolution Waiving the Business Registration Fee for Calendar Year 2020 in Calendar Year 2020; Adoption of a Resolution Rescinding the Levy of Assessments for the Downtown Business Improvement District (BID) for FY20; and Approval of the Reimbursement of Business Registration Fees and BID Assessments Due in 2020

From: City Manager

Lead Department: Administrative Services

This report will be produced on Thursday, April 16, 2020.
SCHEDULE of MEETINGS

THIS IS A COURTESY NOTICE ONLY. MEETING DATES, TIMES, AND LOCATIONS ARE SUBJECT TO CHANGE. PLEASE CHECK THE POSTED AGENDA ON-LINE OR AT KING PLAZA IN FRONT OF CITY HALL FOR THE MOST CURRENT INFORMATION. Almost all Palo Alto Council and some Standing Committee meetings are cablecast live on Channel 26. If there happens to be concurrent meetings, one meeting will be broadcast on Channel 29. The agendas for most meetings can be accessed by clicking on “Agendas/Minutes/Reports” on the home web page.

MONDAY, APRIL 13
City Council Meeting, Virtual, 6:00 PM

WEDNESDAY, APRIL 15
Sp. Utilities Advisory Commission Meeting Virtual, 9:00 AM
Sp. Planning & Transportation Commission Meeting, Virtual, 5:00 PM

THURSDAY, APRIL 16
Sp. City School Liaison Committee Meeting, Virtual, 8:30 AM
Architectural Review Board Meeting, Virtual, 8:30 AM

MONDAY, APRIL 20
City Council Meeting, Virtual, 6:00 PM

TUESDAY, APRIL 21
Finance Committee Meeting, Virtual, 7:00 PM

WEDNESDAY, APRIL 29
Planning & Transportation Commission Meeting, Virtual, 6:00 PM

MONDAY, MAY 4
City Council Meeting, Virtual, 6:00 PM

TUESDAY, MAY 5
Finance Committee Meeting, Virtual, 7:00 PM

WEDNESDAY, MAY 6
Utilities Advisory Commission Meeting, Virtual, 7:00 PM

THURSDAY, MAY 7
Architectural Review Board Meeting, Virtual, 8:30 AM

MONDAY, MAY 11
City Council Meeting, Virtual, 6:00 PM

TUESDAY, MAY 12
Policy & Services Committee Meeting, Virtual, 7:00 PM

WEDNESDAY, MAY 13
Planning & Transportation Commission Meeting, Virtual, 6:00 PM
ALL MEETING WILL BE VIRTUAL THROUGH MAY 4, 2020 USING ZOOM

POTENTIAL APRIL MEETINGS
April 15- UAC 9:00 AM
April 15- PTC 5:00 PM
April 16- City/School
April 20- Council
April 21-Finance

MONDAY MAY 4, 2020  CITY COUNCIL MEETING @ 6:00 PM

ACTION
Update and Discussion of the COVID-19 Health Emergency and the City's Response

STUDY SESSION
Update to the City's Transportation Analysis Methodology for the Purpose of Complying With California Senate Bill 743

ACTION
Adoption of a Resolution Authorizing Staff to Submit a CalOES/FEMA COVID-19 Financial Assistance Application

TUESDAY, MAY 5, 2019  FINANCE COMM. MEETING

Proposed Fiscal Year 2020-21 Community Development Block Grant Funding Allocation (PLN)

MONDAY MAY 11, 2019  CITY COUNCIL MEETING

ACTION
Update and Discussion of the COVID-19 Health Emergency and the City's Response

Award Approval of Eight On-Call Consulting Contracts Totaling $5 Million over a Four-Year Term (Approximately $1.25 Million per Year) to Provide Continued Support for Long Range Planning Projects, Application Processing, and Environmental Review in the Department of Planning & Development Services
TENTATIVE AGENDAS FOR

PUBLIC HEARING: Adoption of an Ordinance Amending Chapter 18.18 of the Palo Alto Municipal Code Extending for One-Year a Ban on Office Uses Above the Ground Floor From Participating in the City’s Downtown Parking In-Lieu Program. Environmental Assessment: Exempt pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3)

TUESDAY, MAY 12, 2019 P&S COMM. MEETING

MONDAY MAY 18, 2019 CITY COUNCIL MEETING

ACTION

PUBLIC HEARING: Adoption of an Ordinance Amending Section 18.42.110 (Wireless Communication Facilities) of Chapter 18.42 (Standards for Special Uses) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) . The Planning and Transportation Commission Recommended ___ of the Ordinance With ___ Modifications on January __, 2020 (___-0 ____ absent) CEQA: This Ordinance is Exempt from Environmental Review Under CEQA Guidelines Sections 15061(b)(3) and 15305

Discussion and Direction to Staff Regarding the Establishment of a Pension Funding Policy

Foothills Park Access Pilot Program

TUESDAY, MAY 19, 2019 FINANCE COMM. MEETING

Staff and the Utilities Advisory Commission Recommend that the Finance Committee Recommend that the City Council Adopt a Resolution Approving the Fiscal Year 2021 Electric Financial Plan and Reserve Transfers, Amending the Electric Utility Reserve Management Practices, and Increasing Electric Rates 2% Overall by Amending the E-1, E-2, E-2-G, E-4, E-4-G, E-4 TOU, E-7, E-7-G, E-7 TOU and E-14 Rate Schedules

Staff and the Utilities Advisory Commission Recommend that the Finance Committee Recommend that the City Council Adopt a Resolution Approving the Fiscal Year 2021 Gas Utility Financial Plan, Including Proposed Transfers and an Amendment to the Gas Utility Reserve Management Practices, and Increasing Gas Rates by Amending Rate Schedules G-1 (Residential Gas Service), G-2 (Residential Master-Metered and Commercial Gas Service), G-3 (Large Commercial Gas Service), and G-10 (Compressed Natural Gas Service)
DOCUMENTS IN THIS PACKET INCLUDE:

LETTERS FROM CITIZENS TO THE MAYOR OR CITY COUNCIL

RESPONSES FROM STAFF TO LETTERS FROM CITIZENS

ITEMS FROM MAYOR AND COUNCIL MEMBERS

ITEMS FROM OTHER COMMITTEES AND AGENCIES

ITEMS FROM CITY, COUNTY, STATE, AND REGIONAL AGENCIES

Prepared for: 04/20/2020


Set 1

Note: Documents for every category may not have been received for packet reproduction in a given week.
Dear City Council,

Please consider finding a different way to limit numbers at our open space preserves, rather than simply closing parking and thereby favoring only the extremely physically fit. I am a hiker, not a strong cyclist, so I cannot manage both the uphill bike ride and the hike in open space.

Has anyone done an actual count of weekday visitors? Just before the preserve parking lots were closed, I was hiking at both Arastradero (which I do once or twice a week) and Foothills Parks, and neither place had larger than usual numbers. Granted, I go only on weekdays.

There’s a fair amount of research supporting the importance of getting into nature for physical and mental health. Please don’t tell me I must walk around my neighborhood, which is flat and crowded, and still has vehicular traffic.

Thank you sincerely for your careful re-consideration of this issue.
Maureen Bard
Please consider re-opening the Benjamin Lefkowitz bike/pedestrian undercrossing at Adobe Creek.

My understanding was that this underpass was never going to be re-opened; rather, it would get replaced with a new overpass. That being said:
- Clearly, construction on the overpass will be delayed due to COVID-19
- Walking, running and biking (using safe social distancing) is allowed and encouraged during the shelter-in-place.
- This would allow greater access to trails on the other side of 101, causing less congestion in Palo Alto streets and making it easier to social distance safely while exercising.

Thank You
Eddie Gornish
From: Shellie Sanchez <shelliesanchez@gmail.com>
Sent: Wednesday, April 1, 2020 11:14 PM
To: Council, City
Subject: Please open Adobe creek underpass!

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

I am not sure I have navigated to the correct department to voice my plea but I would like to request reconsideration of the closure of the Adobe Creek underpass for the next month. In other words, can we open it up so access is easier while parking lots are closed during the stay at home Order? I can’t be the only one who thinks this would be a blessing. Please hear my plea!

If I have sent this to the wrong place, can you please help, redirect it?

Greatly appreciated,

Shellie Sanchez
Palo Alto, CA 94303
Office: (650) 424-1860
Mobile: (650) 804-1676

Sent joyfully on my iPad
Please excuse unintended typos.
Hi,

I’m bored like many people here probably are. An idea, could you get like a newsletter that you could email out like every day or every week where you include a photo and a brief biography/description of what random lower pay city workers (janitors, police dept staff, people in the sixth floor or so of city hall, etc) as a way for normal people if they’re interested to get an idea of who is working in the city for them? I’d say kind of like Robinhood’s Snacks newsletter. Oh well, just an idea, I’m sure y’all have tons of super important virus stuff to work on.

Thanks,
Patrick
( Redacted , renter)

Sent from my iPad
Palo Alto city council,

Is the town continuing to allow construction to continue? If so, why?

It's time to isolate, not encourage others to come into city & work?

Other surrounding towns & cities respect the public county health officials recommendations, Why doesn’t the city of Palo Alto?

We want to live! A friends husband just died of the virus. Please care about all people in surrounding cities & towns when making decisions! Please reconsider your construction decision!

Best,
Kristi
Hello,

I am hoping you can help me find the right person to get this information to. I noticed the city of Palo Alto puts out wellness resources in their COVID-19 update emails and I was hoping you could include our offerings in those updates.

This is Katie from Agile Physical Therapy, a small business located in Palo Alto. I wanted to reach out to hopefully pass along some helpful resources for the local community. Agile Physical Therapy is hosting 4-6 **FREE** virtual classes per day to our community for people of all different skill levels and ages. We have quite a few youth classes to keep kids exercising while stuck at home, tons of classes for adults, and we also have a few classes for elderly folks. All of our classes are taught by a licensed Physical Therapist. Agile is committed to continuing these classes for free while the shelter-in-place order is in effect. You can view the schedule and sign up on our website. [www.agilept.com](http://www.agilept.com)

**Monday:**
8:00 AM Wake and Stretch 30 mins - Rachel Peters
9:00 AM Injury Prevention for New Parents: Q&A - Audrey King
10:00 AM HIIT Upper Body 45 mins - Chris MonPere
1:00 PM Youth Strength & Power 60 mins - Meghan Woodman
5:00 PM Body Weight HIIT 30 mins - Aaron Cortez
5:30 PM Pilates Mat 60 mins - Rachel Peters

**Tuesday:**
7:00 AM HIIT Lower Body 45 mins - Chris MonPere
10:00 AM Get Up and Move: a Re-introduction to Exercise 30 mins - Allison Mayer
11:00 AM Upper Body Strength 30 mins - Joyce Shaw
12:00 PM Pilates Mat 60 mins - Rachel Peters
4:00 PM GirlFit 60 mins - Meghan Woodman
5:30 PM Cardio Jump Rope 30 mins - Laurel Mines
7:00 PM Nutrition Talk 60 mins - Dr. Clyde Wilson ($20)

**Wednesday:**
7:00 AM Adult Strength & Conditioning 60 mins - Juliana Fernandez
8:30 AM Foam Rolling 45 mins - Susana Cicchetti
11:00 AM HIIT Upper Body 45 mins - Chris MonPere
3:00 PM Youth Strength & Power 60 mins - Meghan Woodman
5:00 PM Lower Body Strength 30 mins - Joyce Shaw

**Thursday:**
8:00 AM Wake and Stretch 30 mins - Rachel Peters
10:00 AM Get Up and Move: a Re-introduction to Exercise 30 mins - Allison Mayer
12:00 PM Balance Class 30 mins - Joyce Shaw
2:00 PM Gentle Yoga 60 mins - Amy Babcock
3:30 PM Core Strengthening 30 mins - Laurel Mines
5:00 PM Body Weight HIIT 30 mins - Aaron Cortez

**Friday:**
8:00 AM Pilates Mat 60 mins - Rachel Peters
9:30 AM Foam Rolling 45 mins - Susana Cicchetti
11:30 AM HIIT Lower Body 45 mins - Chris MonPere
2:30 PM Yoga 60 mins - Amy Babcock

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Katie Ramer
Director of Business Operations

3825 El Camino Real
Palo Alto, CA 94306
T: 650-565-8090
F: 650-565-8095

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If you have received this communication in error, please notify us and destroy all copies of this communication and attachments. Federal and State laws protect the privacy of this information. We appreciate your assistance.

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Dear Greg Tanaka and City Council!

I am writing to you because I am hoping that the city council might rethink the decision to close parking at various hiking areas in Palo Alto.

I do understand the concerns about overcrowding or the non practice by some of social distancing. At the same time I wonder if this will not create needless hardship especially for older people who can not walk or bike to the parks.

And: Do we really want to add possible bike accidents to the burden of hospitals?

People are currently safer in their cars!

Could we find a fair system that allows people to be in nature during this stressful time?

Maybe the trail access could be regulated by odd or even license plate numbers or, even easier, the first initials of the last name, evenly distributed over the week? Or maybe seniors could have particular times?

Or some trails could at least be open on weekdays.

In my experience, the vast majority of people adhere to the guidelines, except some bike riders which should not be allowed at this time amongst pedestrians. Shutting down access to our walking areas/ parks only increases the density in remaining parks. Will we close down everything in a few weeks because again it is too crowded?

We all need to be able to move off the anxiety and we can learn to respect the distance. Especially as the weather gets better people will want to be outside and will try to find ways to do so. If the parks are closed then people will walk on the sidewalks which are even narrower and will make social distancing much more difficult and potentially dangerous.

Please rethink!
Thank you, Susannah Jackson
Susannah Jackson
susannaja@gmail.com
Artist / Art Therapist
www.art4growth.com
I'll contact, by phone the COVID group, but as they don't have an eMail address, I though I'd try to contact someone else who did.


   Palo Alto "law/regulation" or whatever, and revisons on COVID-19 restrictions and penalties, rather than only links to comments about them. I expect that there is a document and revisions that is legal, but I tried and can't find them.

   Santa Clara "law/regulation" or whatever, and revisons on COVID-19 restrictions and penalties, and a statement if these are in addition, replaced by, or contained within the "lower" level laws.

   California "law/regulation" or whatever, and revisons on COVID-19 restrictions and penalties, and a statement if these are in addition, replaced by, or contained within the "lower" level laws.

   I'd also like to see an eMail address to the group that would answer questions, suggestions, etc. on COVID-19

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re: [https://www.cityofpaloalto.org/iwantto/contact/default.asp](https://www.cityofpaloalto.org/iwantto/contact/default.asp)

   The first paragraph mentions COVID 19, by in addition would like a link to the page: re: [https://www.cityofpaloalto.org/services/public_safety/plans_and_information/coronavirus/default.asp](https://www.cityofpaloalto.org/services/public_safety/plans_and_information/coronavirus/default.asp)

Thanks: Mike Liveright, Redacted  Palo Alto CA.
CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

--------- Forwarded message -------
From: Loran Harding <loran.harding@stanfordalumni.org>
Date: Sun, Apr 5, 2020 at 3:57 PM
Subject: U.S. Surgeon General shows how to make a cloth face covering- looks easy
To: Loran Harding <loran.harding@stanfordalumni.org>

Sun. April 5, 2020

To all- Here is U.S. Surgeon General showing how to make a cloth face cover. No sewing required. Banana, scarf, tee-shirt. Maybe cut arms off tee-shirt.

https://twitter.com/Surgeon_General/status/1246428235883298816

Havn't tried it yet, but I sure will. If it looks sort of rough, let them sue you.

LH
I'll add another problem with the compostable bags. In normal times, I try to use no bags. But the problem with that became evident when I had to lay my fruits and vegetables directly onto the counter and belt in this time of Covid. So I reverted to using the compostable bags which break and have the other problems Michal sites. Some stores used to offer small paper bags in their produce departments, which are a good option. But those have disappeared with the compostable requirement. Maybe those could come back for now?

On Apr 6, 2020, at 10:33 AM, michal shalon <michalshalon@gmail.com> wrote:

Dear City Council,

Due to Covid-19 the City needs to temporarily rescind it’s paper bag charges. It is ridiculous that while people are not allowed or shouldn’t use reusable bags, we are still charged 25 cents per bag when using the required paper bags. Please let all supermarkets do the right thing and use their discretion during this time.

In addition, and a related issue since we should no longer be shopping every day--the compostable bags that are now required for produce are extremely ineffective for storage of perishables, actually causing dampness and faster molding and potentially hundreds of dollars of wasted food. We are required upon arriving at home to place them in our own ziplocks (which defeats the purpose) or purchase many more containers and spending a great deal of extra time repackaging all our items so they don’t quickly decompose. Washing the many reusable containers probably results in other water waste that equals the bag waste problem, and using ziplocks just kicks the bag problem down the road to individuals.

Respectfully,
Michal Shalon

--
You received this message because you are subscribed to the Google Groups "Crescent Park PA" group. To unsubscribe from this group and stop receiving emails from it, send an email to crescent-park-pa-unsubscribe@googlegroups.com. To view this discussion on the web visit https://groups.google.com/d/msgid/crescent-park-pa/CABS0VB%3Dw5Sv%2BHkKj_NbT-D9QVJRK%2BiksqJKNLnS8jk93g%3DOaBA%40mail.gmail.com.
Honorable Mayor and City Council:

Thank you for your tireless service during this historic time and your efforts to keep the community both safe and operational. In accordance with the County’s recent emergency order related to COVID-19, Golden Gate Homes is in the process of shutting down and securing construction on the residential project located on the Maybell/Clemo site in South Palo Alto.

Nevertheless, we have submitted a request to the Planning Director to allow work that can proceed with adequate social distancing, such as trenching to connect the site to the electrical grid, to continue. If this request cannot be granted, we would urge you and the County to lift this construction stop as soon as possible.

It is important to note that while the Maybell project does not qualify as an essential service because the affordable units are not being constructed on site, completion of construction, specifically final inspection of the first home for sale, is a necessary prerequisite to the payment of the significant in lieu fees that will go to building affordable housing in Palo Alto.

Housing was a critical need before this emergency and will continue to be a critical need after the emergency has passed. The approx. $4.77 million in fees from the Maybell project have been earmarked for the 100% affordable development at Wilton Court. So while the Maybell project does not include affordable units on site, it absolutely provides for the creation of affordable housing in Palo Alto. Therefore, we would urge you to allow connection to the electrical grid to continue or to work with the County to modify the order to allow projects like Maybell to proceed.

We greatly appreciate the consideration of this.

Thank You
Ted O’Hanlon
Consulting Project Manager
Golden Gate Homes

---
Ted O’Hanlon
tedohanlon@gmail.com
415.317.5070 mobile/text
CA DRE #01868277
Dear Mayor Fine and City Council Members,

I'm writing to applaud you for your recent action. Palo Alto City Council's leadership in passing this Evictions Moratorium without delay demonstrates the value we place on renters in our community. It's also encouraging that the Council is considering bringing our City ordinance into alignment with the County ordinance. Allowing for no-fault evictions is bad for the entire community and I'm glad you're working to remove that loophole. Renters and homeowners alike should be able to shelter-in-place properly, without the fear of a sudden move or homelessness. One piece that I'd encourage you to consider amending is the requirement for demonstration of loss of income. Requiring additional paperwork or proof at a time of crisis sets landlords and renters up to be in an adversarial negotiation. A true crisis driven eviction moratorium would make the space for renters and landlords to focus on getting and staying healthy - not proving that there is need. As policymakers, it's important to ask whether this policy will help or harm our community. I believe there is no added benefit to requiring this demonstration of loss. As always, I'm happy to talk more about my thoughts on this topic.

Best,
Angie Evans
Crescent Park Neighbor, Momx2, Community Organizer, Social Worker, etc.
Dear Mayor Fine and council members,

I support a flexible approach to the city budget for Fiscal 20 and 21. The magnitude and duration of the economic slowdown will depend on the magnitude and duration of the virus spread and our progress in treating and containing the virus. We will need to revise our budget as we go forward. I will pass along to the staff all of the economic forecasts I receive regularly from other organizations.

The restart of the economy will go in phases—not all at once. The expiration of shelter in place will go in phases and businesses will have to practice some physical distancing in the early days, for example, having only a % of restaurant capacity open or pacing how many can come to a store. As a result the city will experience revenue shortfalls long after economic activity begins to restart.

The major responses for helping residents and businesses must come from the federal government. While we all want to help those who are being injured in the economic downturn, state and local governments themselves are victims in the sense of negative impacts on their budgets.

I think this is a time for a wake up call and serious reflection about the requirements for a healthy local economy.

Well before the virus and postponement of the business tax, Palo Alto was seeing large vacancies and closures or move outs of employees. An office where I work has been vacant for nine months as has one of the commercial condos where I live and an increasing number of spaces downtown where I live and work and walk daily.

I see and read about businesses who announced they are closing permanently.

The Stanford folks can speak to the impacts in the research park and shopping center.

We are no longer the place where everyone has to be. Neighboring cities are offering newer facilities, lower rents and a more welcoming attitude toward growing the customer base needed for our struggling small businesses. It does not matter what the lease rate used to be if stores and offices are vacant and businesses are closing or leaving the city.

Moreover, we have adopted policies that limit the number of customers by limiting commercial and residential growth, even though we know that existing residents are spending online as our stores close.

So to me the most important response will be to help residents understand how our competitive position has changed, fund an economic development office and once again become a community that welcomes new residents and businesses to rebuild our customer and revenue base.
If anything the pandemic has taught us that to ignore evidence and not plan for the future is not a strategy for success.

I hope all are safe and well and commend council and the city staff for a proactive response to the COVID-19 spread and threat.

Stephen Levy

Palo Alto
Hi, I just wanted to provide a minor update, which you may or may not be aware of and does remove a layer of complication to your discussion tonight. The Judicial Council of California just adopted an emergency court rule that effectively stops all new eviction cases, other than those necessary to protect public health and safety, for the duration of the COVID-19 emergency. The rule is applicable to all courts and to all eviction cases, whether they are based on a tenant’s missed rent payment or another reason. This new court rule will apply until 90 days after the Governor lifts the state of emergency related to the COVID-19 pandemic, or until it is amended or repealed by the Judicial Council.

On Thu, Apr 2, 2020 at 7:07 PM Angie Evans <angiebevans@gmail.com> wrote:

Dear Mayor Fine and City Council Members,

I’m writing to applaud you for your recent action. Palo Alto City Council’s leadership in passing this Evictions Moratorium without delay demonstrates the value we place on renters in our community. It’s also encouraging that the Council is considering bringing our City ordinance into alignment with the County ordinance. Allowing for no-fault evictions is bad for the entire community and I’m glad you’re working to remove that loophole. Renters and homeowners alike should be able to shelter-in-place properly, without the fear of a sudden move or homelessness. One piece that I’d encourage you to consider amending is the requirement for demonstration of loss of income. Requiring additional paperwork or proof at a time of crisis sets landlords and renters up to be in an adversarial negotiation. A true crisis driven eviction moratorium would make the space for renters and landlords to focus on getting and staying healthy - not proving that there is need. As policymakers, it’s important to ask whether this policy will help or harm our community. I believe there is no added benefit to requiring this demonstration of loss. As always, I’m happy to talk more about my thoughts on this topic.

Best,
Angie Evans
Crescent Park Neighbor, Momx2, Community Organizer, Social Worker, etc.
Hello;

Thank you for your continued attention to the issue of climate change and sustainability. I am frustrated by the slow pace of implementation of climate change improvements.

The city continues to subsidize single passenger vehicles at the expense of our climate goals:
- The city has funded a parking garage and continues to pursue Caltrain grade separation representing tens of millions and potentially billions of dollars of subsidies for automobile-centric development, respectively.
- In one of the smartest and richest towns in the country, the city council fails to recognize that parking spaces can be revenue streams rather than an endless expense.
- Parking meters would allow the invisible hand of the market free up parking spaces, while potentially generating revenue for transit improvements.
- The city council has blocked bus rapid transit, which would have greatly reduced greenhouse gas emissions parking requirements.
- I am absolutely appalled by the Palo Alto Police Department driving poor gas-mileage sports utility vehicles.

Palo Alto is a sea-level community that acts like it's on a mountain. Rising sea levels threaten our golf course and airport.

I want the city council to abandon tax-payer support for automobile centric development, and start implementing a city where pedestrians, bicycles trains and buses provide most of our transportation needs.

Thank you,

Dr, Christopher Cocca
Dear City Council Members,

I know that it is hard to think of anything else besides the coronavirus right now, but just as we are trying to flatten the curve with respect to Covid-19 so that our hospitals will not get overwhelmed and be unable to save lives, we have to **continue to flatten the curve of rising greenhouse gases** so that the earth will have a chance to heal and we won't find ourselves in a negative feedback loop of melting permafrost, melting glaciers/icebergs, rising acidity in the ocean,...that we can't get out of. The future of human life on earth is at stake.

I urge you to direct staff to present programs that can actually reach our GHG reduction goals in time. The City should measure all fossil fuel reduction programs against meaningful annual targets including water heaters, space heaters and vehicles that align with 80/30 starting with 2020 and 2021.

Just so you know I'm doing my part, too, here is what I've done in the last 15 years to lower my carbon footprint.

2005 - **Took David Gershon's course, Low Carbon Diet**, taught by David Coale and lowered my carbon footprint by 5000 pounds by **changing lightbulbs**, **lowering thermostat**, **taking shorter showers**, **riding to work**, and **buying a Prius**....

2006-2007 **Taught Low Carbon Diet class** to fellow teachers and parents at El Carmelo where I worked and to other concerned citizens so that they, too, could lower their carbon footprints. Started the **Midtown Green Team** with some friends and contacted every household in Midtown to let them know how they could reduce their garbage and save money by ordering a **smaller black trash can**.

2009- **Installed solar panels** on our roof. Started **hanging out our laundry to dry** after getting a clothes line from Acterra’s Green at Home program.

2009-2015 **Co-led the Green Team at El Carmelo**, helping kids learn how to recycle correctly and start to compost. Also co-led our **Cool the Earth** program to help children teach their parents how to lower their carbon footprints. Actively promoted **biking to school**. **Became a Zero Waste Block Leader**, housing one of the Zero Waste Party
Packs and loaning it out so folks could cut down on their paper products garbage from parties.

2016 With Sandra Slater and David Coale, joined the first cohort of Cool Block Leaders, helping neighbors reduce their carbon footprints while getting prepared for emergencies and getting to know each other better. Started buying offsets for airline miles.

2017- 2020 Became a Cool Block Coach to help other Block Leaders help their neighborhoods reduce their carbon footprint. Bought an EV Bolt and became a one car family.

2020 - Upgraded insulation in our attic to R-38 after having the Home Genie presentation. Installed a heat pump water heater to replace our gas heater, earning a rebate from the city.

I'm glad I live in a city like Palo Alto. Thank you for setting the GHG reduction goals. Now we need to do everything possible to meet them.

Sincerely,
Annette Isaacson
Midtown Neighborhood
Dear City Council,

Thank you for making concerted efforts to address the environment and planetary safety for all Palo Altans. However, I note that you have not stuck to the original plans of 80% reduction of fossil fuels by 2030 that was stated in 2016 - specifically with respect to transportation and electrification. Please reconsider these for the new S/CAP - and going forward - by really strongly reducing emissions with electrification of all buildings (heating and water heating) as well as electric vehicles and reduced miles of travel within our city, to both reduce pollution as well as energy use. This could mean we cut a lot of gas water heaters quickly. I ask you as a council to address these concerns for the sake of our collective future.

Prerana Jayakumar
Midtown

*Do not be dismayed by the brokenness of the world. All things break. And all things can be mended. Not with time, as they say, but with intention. So go. Love intentionally, extravagantly, unconditionally. The broken world waits in darkness for the light that is you.* - L.R.Knost

[http://www.karnatik.com](http://www.karnatik.com)
[http://www.okachiko.com](http://www.okachiko.com)
[http://www.transitionpaloalto.org](http://www.transitionpaloalto.org)

I'm using [Inbox When Ready](https://www.inboxwhenready.com) to protect my focus.
Honorable Council Members,

Please find attached a letter from Carbon Free Palo Alto presenting our comments and recommendations on Staff report: [Review the 2020 Sustainability and Climate Action Plan (S/CAP) Update Process and Accept the 2020-2021 Sustainability Work Plan](#)

We understand the report was dated for March 23rd but is now scheduled to be heard on April 13th.

Carbon Free Palo Alto
Carbon Free Palo Alto Comments on Staff Report: “Review the 2020 Sustainability and Climate Action Plan (S/CAP) Update, Process and Accept the 2020 -2021 Sustainability Work Plan”

We appreciate the continuing efforts by staff to create a planning process and range of programs to address climate change and other sustainability opportunities. With limited directives from council, they have executed well using standard program planning and budgeting approaches in a challenging staffing environment.

However, we continue to see that our collective efforts and plans are not up to the GHG reduction task at hand. We would like to make a few observations and simple recommendations to make the planning process for it more effective and engaging. We also recommend a shift in program focus to one that has the potential to meet the need for mass adoption of electrification measures to reduce GHGs.

CFPA’s mission is to help our city address the climate crisis by providing analysis and effective policy alternatives. Echoing the conclusions of the latest IPCC report, it is clear that we require programs to reduce fossil fuel use that are rapid, far reaching and unprecedented.

Palo Alto’s 80% by 2030 goal was set in accordance with this mandate with the understanding that we would have to go beyond standard planning processes and the normal incremental and voluntary city programs like rebates, incentives and education to reach it. The 2016 S/CAP clearly identified electrification of buildings (water and space heating) and transportation (EVs and SOV/VMT reduction) as the primary lines of action required.

There is now a longstanding disconnect between our GHG reduction goal and Palo Alto’s program results and plans. The graph of emissions below shows that there have been no significant reductions since 2013. Also, we have seen no discussion of electrification or transportation programs that could feasibly scale to the 80/30 goal – for example, a program and plan that could quickly lead to the replacement of thousands of residential gas water heaters each year. From this perspective, City Staff and Council have collectively made no substantive progress on implementing our official City climate policy.
Moreover, the graph above shows how City reports use carbon offsets to obscure the major portion of our emissions that come from burning gas in our buildings. Including offsets in City accounts and reports of local GHG emissions is entirely misleading to the public. As a voter, why would one support major investments in electrification if the City shows that our building emissions are already fully neutralized with offsets?

The Utility work-plan recently submitted to the UAC (referenced in the Staff Report) represents a good start on programs that support gradual electrification, but it falls very short of providing the complete solution we need to spur broad and immediate adoption.

The work-plan helpfully shows a road-map of voluntary programs for electrification (Figure 3 below), including the kind of complete solution that CFPA has been strongly advocating since 2017 (far right of the chart). This approach offers customers easy-to-buy electrification measures like water heaters and panel upgrades, directly installed by certified partners and optionally financed with low interest over long terms. Payments would show up on the
customers electric bill - i.e. inclusive on-bill financing. CFPA proposed this kind of program in its 2018 BE Smart white paper and the idea is gaining momentum across CA.

Recommendations to City Council

In order to engage in a realistic and effective dialog about climate action, ask staff to:

- **Present goals in meaningful terms** that quantify the action required of the city, residents and businesses on an annualized basis. Staff should provide consensus estimates of how many fossil fuel devices must be replaced each year in order to meet the 80/30 goal. **CFPA has proposed a model showing this to be approximately:**
  - 2300 gas water heaters per year
  - 1400 gas HVAC systems per year
  - 8600 gas vehicles per year
  - TBD: Single-occupancy vehicle (SOV) travel and reduced vehicle miles travelled (VMT) also offer significant scope for change.
● **Tie existing programs and proposals to these unit goals** so that the stakeholders can understand and actively engage in program selection and development discussions.

● **Present a complete range of program options for consideration** including ones that could meet the 80/30 requirements.
  ○ Include the usual approaches with available/incremental resources.
  ○ Include “80/30” scale options that may require significantly more staff, partners and funding. This includes exploring the more ambitious options with stakeholders and 3rd parties to outsource development and implementation work.

● **Omit the use of confusing carbon offsets** for natural gas in progress reports and communications about actual local GHG reductions achieved.

● **Continue the focus on a 2-year work planning process** with ongoing stakeholder engagement and annual study sessions with council. The 2016 S/CAP made the electrification pathway to the 2030 goal clear enough. We only need to follow through on its fossil fuel reduction directives in time. The proposed 2020-21 work plan should be tied to annualized device unit goals as mentioned above. This agile planning approach fits the need for **rapid, far reaching and unprecedented** action.

● **Begin comprehensive study and planning immediately of a scalable program.** E.g. the on-bill financed, direct install solution in the UAC discussion document (Figure 3, p8 of the UAC report). We believe it could be implemented within a year utilizing external business partners. They could likely provide work-arounds for billing system limitations mentioned in Figure 3 above, for example.

● **Come back to Council within a few months with plans** that reflect these recommendations and incorporate interim feedback from both CFPA and Council.

In conclusion, the 80/30 goal of the City is official policy, but actions by the City are insufficient for meeting the goal.

Carbon Free Palo Alto

Bret Andersen - bretande@pacbell.net
Bruce Hodge - hodge@tenaya.com
Let me begin by echoing the message of gratitude expressed by one of the community members during the zoom session: thank you for your devotion to the well-being of our community (and do know that at least two of us viewed the livestream of last night’s council meeting until the end, which was not reflected in the number of participants on the zoom session).

I would also like you to share my appreciation for the efforts made by city staff during these trying times. Please have the City Manager put a “+1” on the message of gratitude you expressed to staff.

The primary response I have to last night’s conversation has to do with the discussion around Option A vs Option B and compensation. I have two thoughts on this matter.

First, I would like you to consider the genesis of the phrase “public servant”. Please consider why is there not an analogous phrase to describe the small business owners which occupied so much of your agenda last night. People who apply to work for a municipal government have a different motivation than those who work in the private sector. Of course, what they can expect in terms of reward differs as well. In a sense, one may say that they have made a sacrifice going into their jobs, sacrificing the promise of stock options, an IPO or acquisition by a corporate giant.

Second, I would like you to consider what might be called a “progressive impact” upon city staff. If you ultimately choose to take an approach akin to Option B, can there be a different degree of impact upon city employees at the lower end of the pay scale versus those at the top? That is, have those employees in the lowest quadrant of monthly pay be reduced to work 97% time rather than 100%, where those in the top quadrant are reduced to work 83% time and those in the top 5% of pay reduced to work 75% time. This proposal is extremely simplistic, of course—I would not suggest that first responders in the Fire Department actually have their shifts reduced. I merely propose that you consider whether those with more modest incomes receive greater consideration. I certainly urge you to determine a way forward in which every city employee retains uninterrupted health care benefits.

again, thank you for your devoted leadership, Ken Joye Ventura neighborhood
Hello,

Please consider this email as my formal request for the City Council and the ARB NOT to hear issues related to 620 Emerson Street, Palo Alto, and for other non essential projects, until such times as the shelter in place is lifted, businesses such as copying stores are operational, and the public is given time to obtain, study and prepare presentations on the subject matter.

Please alert me in writing of any hearings, virtual or otherwise, related to the subject matter.

Thank you.

Elizabeth Wong

650 814 3051
Thank you for letting us know. We believe it has now been corrected. Please let us know if not.

Sincerely,

MONIQUE ZIESENHENNE, PhD
Assistant City Manager
(650) 329-2403 | Monique.Ziesenhenne@cityofpaloalto.org
www.cityofpaloalto.org

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At least for me, the link on the YouTube page goes to the April 13 agenda.

Thank you.

Leslie
From: Colene McBeth <colenemvort@gmail.com>
Sent: Wednesday, April 8, 2020 10:56 AM
To: Council, City
Cc: Colene McBeth
Subject: Business Assistance Center

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Hello- I noticed that we (Palo Alto) now have a “Business Assistance Center” online site with links to help our local businesses now and hopefully in the near future when the city starts to re-open- this is wonderful!

However, I didn’t see an email or contact associated with this information- is there an actual person who is on point as a resource to help businesses understand how to access federal resources, fielding questions, etc?

I know from speaking with several local business owners they are so busy just keeping their businesses running it can be daunting to navigate some of this information. We, as residents, are doing what we can from home, but just thinking about other ways in which we might be able to help.

Best,
Colene
(palo alto resident)
Hello Palo Alto City Council,

Thank you for your leadership and service during this difficult time.

Our organization, Manzanita Works, has been convening stakeholders interested in the creation of an employer-led, interim childcare co-op for essential workers' needs during the COVID-19 pandemic. We have been meeting with employers, providers and entities with potential locations in several cities including but not limited to Palo Alto.

Attached is a proposal for collaboration between Manzanita and the City of Palo Alto. In addition we welcome the City of Palo Alto to participate as an employer.

Please let us know if you have any questions.

Best,
Mila

Mila Zelkha
Executive Advisory Committee Chair
650-518-0040

--supporting the welfare of workers and families
A fiscally sponsored project of Community Initiatives, a nonprofit
Manzanita Works Child Care Cooperative Guiding Principles

1. Recognize that access to affordable, quality childcare is one area among many that affect workers’ quality-of-life and ensure solutions are approached holistically.

2. Create relationships to develop public-private partnership programs that:
   a. Integrate differences between childcare best practices and safety protocols;
   b. Incorporate a finer-scale approach that identifies specific local deficiencies in childcare options near the place of employment where stakeholders can develop relationships and are empowered to shape what works;
   c. Use policy and language that clearly identifies objectives and supports success,
   d. Seek to resolve the larger dilemmas around gaps in services in the larger regional context by fostering collaborative, diverse relationships; and
   e. Respect the cultural differences between industry and the public sector.

3. Enhance equity:
   a. Engage essential workers employed by businesses and organizations without childcare programs or childcare incentives – regardless of job class;
   b. Reduce costs for employers with lower profit margins;
   c. Subsidize documented out-of-network costs for lower-income employees; and
   d. Expand childcare options for super-commuting essential workers.

4. Address quality-of-life problems:
   a. Minimize potential COVID-19 exposure to children, staff and parents;
   b. Launch program to reduce financial, physiological and psychological impacts on families of essential workers; and
   c. Ensure essential workers have efficient, quality childcare options and financial incentives to care for their dependent children.

5. Partner with essential workers to find, evaluate and improve childcare options to meet the needs of their family.

6. Partner with childcare providers to harmonize services and optimize opportunities while incorporating quantitative and qualitative data in the decision-making process.

7. Partner with local jurisdictions, school districts, faith-based institutions and other organizations that may have sites that are licensed and/or approved for use with youth.

8. Engage civic community leaders with informational events when appropriate.

9. Ensure communication to members of the public is clear and purposeful.
April 6, 2020: City of Palo Alto

Public-Private Interim Childcare Cooperative Proposal

Introduction: Manzanita Works is coordinating an employer-led stakeholder group interested in designing and delivering interim childcare services to essential workers as featured in this proposal. The objective is to:

a) to build a relationship with the City of Palo Alto (City), and

b) become a single point of contact for Palo Alto interim child care for essential workers (CCEW) efforts that integrates the needs of private and public employers.

Request: As Manzanita Works leads efforts with Palo Alto employers to integrate their respective childcare programs across the city, Manzanita Works seeks to collaborate with the City to best implement interim childcare options in accordance with established policy and shared goals.

Objectives: To coordinate Palo Alto interim CCEW programs, monitor and report on performance, and collaborate with the City on program design improvements to serve the childcare needs of essential workers with the highest regard for the physical and social/emotional wellbeing of both the children being served and the providers offering the service.

By enhancing local and regional childcare programs and emphasizing strategies that increase options for quality of care within a geographic area while minimizing the potential exposure to participants of COVID-19, these programs will provide:

1. CCEW at a time when schools and traditional childcare solutions have closed,
2. Reduced exposure to COVID-19 through specially trained CCEW staff,
3. Secure, comfortable physical locations in strict compliance with regulatory protocols and guidelines including but not limited to the WHO, CDC, State and County authorities,
4. Licensed childcare development services including education and behavioral health expertise,
5. Distance learning, tutoring, mentoring in a structured environment,
6. Daily activities including physical activity, games and free choice time,
7. Nutritious meals and snacks,
8. Technology and broadband access as appropriate for given ages,
9. Contribution to solving gaps in ongoing childcare option challenges, and
10. Outreach to childcare providers for additional service as needed.
City of Palo Alto Public-Private CCEW Proposal

**Partners:** SEIU UHW, California School Educators Association, Youth Community Services

**Background:** The Palo Alto CCEW stakeholder group proposes to collaborate with the City as the group integrates CCEW programs to improve childcare options and reduce community exposure to COVID-19 in Palo Alto.

The vision is for a practical, phased deployment of city-wide CCEW programs based on job-center neighborhoods and transit-oriented development, and access to childcare resources from within the larger Ravenswood Subregion which is defined as the eight cities from Redwood City south to Sunnyvale.

The nature of this proposal is public-private where collaboration from the City is welcomed for effective childcare compliance in accordance with County licensing. In addition, as a local employer who might benefit from the proposed programs, the City may choose to participate in the Palo Alto group. Local childcare providers are providing program recommendations and additional providers are welcome to participate.

Programs outlined in this proposal would be deployed by Manzanita Works within its nonprofit mission under its program Manzanita Kids. Advisory oversight responsibility will be assigned to the Palo Alto Leadership Team of the Palo Alto Employer Cohort and Manzanita staff, with ultimate responsibility resting with the board of directors of Community Initiatives until such time as Manzanita Works is recognized as exempt under section 501(c)(3) of the Internal Revenue Code of the United States. The subregional steering committee will be representative of the co-op members overall.

**Funding:** The operating funds would initially come from private funding sources including a mixture of corporate grants, employer dues (sliding scale) and philanthropic funds. Public funds would be sought to diversify funding sources from entities such as the State of California.

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**Attachment A:** Guiding Principles  
**Attachment B:** Program Draft  
**Attachment C:** Manzanita Works
Attachment B:

Program Proposal Draft:

1. Childcare services for ages 0-2 years old:
2. Childcare services for ages 2-3 years old
3. Childcare services for ages 3-5 years old
4. Childcare services for ages K-5th grade
   • Supplemental online child enrichment programming across the subregion
   • Tutoring program
5. Enrichment programming for ages 6th grade and up
6. Parent support services
7. Child and adolescent counseling services
8. Commute counseling for parents
9. TimeBank program for in-family childcare solutions

Schedule: A minimum of three employers are required to initiate the planning for a phased deployment of programs and to date, two employers have stepped forward. Pending a third employers to confirm interest, Manzanita Works will begin planning for programs to be made available by April 20th if not sooner.

Metrics: Employers participating in this Palo Alto co-op will kept apprised of:

- how many kids/families are enrolled;
- job classes of parents and/or income;
- distance between work/home;
- hours kids use childcare; and
- customer feedback from participating families.
Attachment C:

About Manzanita Works:
Manzanita Works supports the welfare of workers and their families by helping better move, house, value and educate the workforce of tomorrow thereby enabling them to live fruitful, dignified lives.

Manzanita Works is fixing the Bay Area’s broken commute by creating subregional transportation management associations (TMAs), which are industry-led, public-private partnerships that leverage existing transportation options to create a more cost-effective, convenient commute for the region’s diverse workforce while strengthening public transportation in the long run.

During the COVID-19 pandemic, Manzanita Works and its Manzanita Coalition is helping to lift up local knowledge and local leadership to implement best practices in childcare, food security, housing security, youth enrichment as well as locally sourcing the production of Personal Protective Equipment (PPEs) for frontline essential workers.

Manzanita Works is a fiscally sponsored project of Community Initiatives in Oakland, CA. Previously known as Bay Area Forward, we have supported community-led efforts to close gaps in public services in the San Francisco Bay Area since 2014.

About the team:
Mila Zelkha, Founder, oversees Manzanita Works’ organizational development and public-private partnerships. Her background is in social impact investing, sustainable design, market transformation, social services, nonprofit administration and community organizing.

Justine Burt, Director of Outreach, oversees Manzanita Works’ outreach to commuting workers and their employers. Her background is in behavior change in the transportation and clean energy sectors. She earned her M.A. in Urban and Environmental Policy from Tufts University.

Angel Santuario, Organizer, leads the community organizing support to the Manzanita Coalition, a broad-based voluntary civic group dedicated to building capacity to act together in support of workers and worker family welfare.

Lynette Busby and Chris Romero are transportation consultants with MRG, LLC with over 30 years of experience designing and implementing TDM programs, which resulted in trip reductions of up to 32%, for local employers in Contra Costa County including the Contra Costa Centre Transportation Management Association.

Douglas Kolozsvari, Ph.D., is the Principal of Solutions 2050, a climate science planning and policy consulting firm working with Bay Area public agencies to meet GHG emission reduction goals. He earned his Ph.D. in Urban and Regional Planning from the University of Michigan.

Diane Meier is a social sector institutional fundraiser with a focus on food systems change, addressing the climate crisis and environmental sustainability.

Contact: Mila Zelkha: board@manzanita.works
Dear City Council,

This is a very tough time the world is facing. The most recent Santa Clara Ordinance is a good one, but as construction projects come to a close, there are huge implications with your constituents who have projects underway.

Please encourage the Planning and Building department to:

1) Make every effort to help construction projects underway make a safe and secure closure. This specifically includes wrapping up any previously scheduled inspections (with social isolation) and or allowing contractors to use photo documentation or remote video inspections.

2) Accept and review projects online via PDF documentation and using online tools such as Zoom.

The department seems to be shutting down without any problem solving efforts during this crisis rather than working with people to preserve investments underway.

Thank you,
Jessica Resmini

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ADU|Collective
Build smart for flexible living.

Jessica Resmini
Architect, LEED AP
Mobile +1 415 823 3213
Company Site | Linkedin
Dear Amy,

I would appreciate it if you would tell me where things now stand with respect to small cell node wireless installations in Palo Alto. In particular, please tell me if there is currently a “shot clock” ticking on any cell tower application(s).

More generally, I am asking for information about cell tower application submissions, resubmissions, reviews, approvals, appeals, hearings, permits, installations, compliance reports, tolling agreements, shot clock extensions and the like.

Thank you for your help. And, of course, please let me know if you have any questions.

Sincerely,

Jeanne

Jeanne Fleming, PhD
JFleming@Metricus.net
650-325-5151
April 7, 2020

Palo Alto City Council

Councilmembers:

I recommend that our City change its planning and zoning to promote, even require, additional housing on commercial and multifamily parcels.

One current example is 380-410 Cambridge Avenue. It is a fine commercial building design - very similar to the commercial building at the corner of El Camino and California Avenue. I presume that the Retail Preservation Overlay means that the first floor will have some retail space. But it a missed opportunity.

I would like to see the City require that any such development add a 4th story of apartment or condominium housing, creating a mixed-used building in every new development.

I envision 4-story building replacing most of the 1-story and 2-story commercial building along El Camino - 1 floor of retail, 1 or 2 floor of offices, and 1 or 2 floors of housing. Perhaps there are financial incentives that the City could provide to encourage the current landowners to replace many of those existing building sooner rather than later.

With such an approach, limited to commercial parcels and transit corridors, our City might approach having an appropriate number of housing units to support the jobs that are located in our city.

Thank you for your attention to this matter.

Mike Forster, Evergreen Park
Redacted
Palo Alto, CA 94306
Mike.forster@alumni.usc.edu
650 464 9425
BAY AREA ITALIAN EVENTS PROMOTES ITALIAN ACTIVITIES DURING THE LOCKDOWN

San Jose, 4/3/2020 – “Talk like an Italian” and “Cook like an Italian” are the latest initiatives created by Bay Area Italian Events to support the community during this lockdown. The goal is to promote Italian culture while people are confined in homes, helping them fight boredom and isolation, with a chance to learn something new and interesting.

“Talk like an Italian” offers an opportunity to practice Italian language covering a different topic every week. The conversations take place twice a week, every Tuesdays at 10.30am and every Thursdays at 5.30pm, and last 1 hour each.

Registrations are free and available on BAIE website: https://www.bayareaitalianevents.com/. The requirements to join the classes are basic Italian conversation skills and the Zoom application downloaded on a laptop, tablet or smartphone, by clicking on the link provided during the registration process.

“Cook like an Italian” are virtual cooking classes showcasing different Italian recipes that can be easily made at home with simple ingredients. This initiative is intended to also support Bay Area chefs and restaurants promoting their businesses.

The first virtual cooking class will be hosted on April 8th with the chef Rosetta Costantino, teaching how to make some of the most famous fresh pasta from Southern Italy from scratch. The class ticket is $30 dollars and can be purchased on BAIE website: https://www.bayareaitalianevents.com/. Zoom application download is required to participate.

A list of new initiatives will be shared soon on Bay Area Italian Events social channels. Nothing can stop Italians, not even during tough times 😊
Bay Area Italian Events is an Italian female startup organizing authentic events in the Bay Area about Italy, Italian culture and Italian food. If you want to support it, you can make a donation on: https://www.gofundme.com/support-bay-area-italian-events

Contact us:
MAIL: ciao@bayareaitalianevents.com
WEBSITE: https://www.bayareaitalianevents.com/
FACEBOOK: https://www.facebook.com/bayareaitalianevent
INSTAGRAM: https://www.instagram.com/bayareaitalianevents/
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Gisella, Carlotta & Isabella

----------------------------------------------

Bay Area Italian Events is an Italian female startup organizing authentic events in the Bay Area about Italy, Italian culture and Italian food. If you want to support it, you can make a donation on: https://www.gofundme.com/support-bay-area-italian-events

Contact us:
MAIL: ciao@bayareaitalianevents.com
WEBSITE: https://www.bayareaitalianevents.com/
FACEBOOK: https://www.facebook.com/bayareaitalianevent
INSTAGRAM: https://www.instagram.com/bayareaitalianevents/
Dear Palo Alto Administrators and City Council Members:

I am deeply concerned about the attempts by Palo Alto to curtail landscaping services by independent gardeners.

My street, Marion Avenue, has many trees which have leaves all year and drop multiple thistles, three of which are on my property. Leaves often cover them, and it is easy to walk over them and trip. It has happened to me several times. I am 79 and have osteoporosis. My husband is severely handicapped, so I need to stay in good physical shape to care for him. I cannot rake the leaves and do not have the equipment.

The gardener is outside and therefore he has no contact with anyone in our house.

I am requesting that our gardener continue his work cleaning the leaves and sweeping the thistles.

Thank you.

Sincerely yours,
Tatiana Van Houten
Baumb, Nelly

From: Loran Harding <loran.harding@stanfordalumni.org>
Sent: Saturday, April 4, 2020 2:49 AM
To: Loran Harding; dennisbalakian; David Balakian; Dan Richard; dallen1212@gmail.com; Daniel Zack; bballpod; alumnpresident@stanford.edu; Joel Stiner; midge@thebarretts.com; leager; Cathy Lewis; fmbeyerlein@sbcglobal.net; francis.collins@nih.gov; kfsndesk; newsdesk; kwalsh@kmaxtv.com; Mayor; Mark Kreutzer; Mark Standriff; margaret-sasaki@live.com; huidentalsanmateo; eappel@stanford.edu; beachrides; bearwithme1016@att.net; hennessy; Doug Vagim; Steve Wayte; Council, City; lalws4@gmail.com; Leodies Buchanan; grinellelake@yahoo.com; Pam Kelly; russ@topperjewelers.com; steve.hogg; vallesR1969@att.net; mthibodeaux@electriclaboratories.com
Subject: Fwd: If "we" have your Dir. Dep. info. If "they" have Dir. Dep. info. Who? Morons

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

--------- Forwarded message ---------
From: Loran Harding <loran.harding@stanfordalumni.org>
Date: Sat, Apr 4, 2020 at 2:11 AM
Subject: Fwd: If "we" have your Dir. Dep. info. If "they" have Dir. Dep. info. Who? Morons
To: Loran Harding <loran.harding@stanfordalumni.org>

--------- Forwarded message ---------
From: Loran Harding <loran.harding@stanfordalumni.org>
Date: Sat, Apr 4, 2020 at 12:44 AM
Subject: Fwd: If "we" have your Dir. Dep. info. If "they" have Dir. Dep. info. Who? Morons
To: Loran Harding <loran.harding@stanfordalumni.org>

--------- Forwarded message ---------
From: Loran Harding <loran.harding@stanfordalumni.org>
Date: Sat, Apr 4, 2020 at 12:25 AM
Subject: Fwd: If "we" have your Dir. Dep. info. If "they" have Dir. Dep. info. Who? Morons
To: Loran Harding <loran.harding@stanfordalumni.org>

--------- Forwarded message ---------
From: Loran Harding <loran.harding@stanfordalumni.org>
Date: Sat, Apr 4, 2020 at 12:14 AM
Subject: If "we" have your Dir. Dep. info. If "they" have Dir. Dep. info. Who? Morons
To: Loran Harding <loran.harding@stanfordalumni.org>
Friday April 3, 2020

To all- Look at this exchange on Thurs. April 2, 2020 re direct deposit to get one's $1200. Mnuchin says "if they have direct deposit with us"! I guess he means with the IRS since it is within his Treasury Dept. Social Security is not within Treasury. So why not SAY if they have direct deposit information with the IRS????!! Maybe he meant with the Federal Government when he said "with us". That would take in the Treasury Dept and Soc. Sec. Does he not know that there are more than one department in the Fed. Gov? Then the reporter asks "what happens if they have direct deposit"? Direct Deposit by whom and from whom? God almighty. She assumes the fed. government is one giant monolith? It has departments!! Guess she got her job through the Nazi Affirmative Action scam. The Treasury has put out a website saying that they will put the $1200 payment into Social Security recipients' bank accounts if those folks have their SS benes delivered by direct deposit by Social Security. Treasury will use the info on a 1099 Soc. Sec. document. That helps a little. If you are not on SS, how will the money get to your bank account? Man, mass confusion because Mnuchen does not know the org.chart of the Fed. Gov. and cannot use basic English with precision. "With us". With whom?? "If they have direct deposit" From whom??!!

https://www.youtube.com/watch?v=INJ4kF--JHg

Yesterday and the day before at the press briefing by Trump, there were two big-screens on either side of the lectern. There appeared on them important information as Fauci and Deborah Birx spoke and they walked over and referred to them and the camera did not follow them!!!!!!! Predicted curve of the epidemic was one. Whoever is in control of the camera was not told that those slides might come up on the big-screens? Just unbelievable!!!! "Gosh, there are slides on the big-screens, I wonder if I could pan the camera to show them? Might get arrested by the Secret Service if I do". GEEZ! Will the task force please alert the camera people when there will be images on those screens and get a Presidential Exec. Order for them to pan the camera to show them? Just unreal? Maybe the Sect. General of the UN could authorize it. How about Maduro or Putin?

Re. hydroxychloroquine, some impressive doctor was on a few nights ago saying it can cause sudden cardiac arrest- never discussed by Fauchi or the task force. I guess if you are at death's door due to the virus, you'd take a chance on that. Know I would. Here is what the Mayo Clinic says about off-lable use of the drug to treat covid19 pts.

https://fox6now.com/2020/03/26/mayo‐clinic‐warns‐of‐risk‐of‐sudden‐cardiac‐death‐in‐use‐of‐off‐label‐covid‐19‐treatments/

IMPORTANT: Again, the task force should determine what companies in the U.S. can make the PPE and vents. and recommend to Trump that he use the DPA to order them to do so. The reporters sort of, sort of, ask that question and Trump is a master of evasion on the issue. "We are doing everything possible. Companies are stepping up". "We have used the DPA on companies that produce components of the vents". What about all the other supplies- gowns, N95 masks, gloves, face shields? Trump should be using the TPA over and over on dozens of companies or on hundreds of them to get ALL OF the PPE and vents produced and delivered where needed. I repeat, it looks like he doesn't want to impose on his rich Republican pals in the business community by using the DPA on them.

I suppose impeaching him for that looks like a distraction in the middle of this crisis. He should suffer some serious consequence because people are dying due to his inaction- like losing the 2020 election, e.g. Just watch the network and local news. The Dems should be yelling it from the rooftops. He's killing people to avoid distressing the rich Republican business community with TPA orders, apparently! Since the Corona Virus Task Force won't do it, the Dems in Congress should determine what companies could be producing needed equipment and supplies and then demand to know from Trump why he is not using the DPA to order them to do it. Get all over TV with lists of companies who could be producing but are not due to Trump's inaction. I know that is work, but they have staffs.

Here is PBS Newshour for Friday, April 3, 2020: Two points:
1) See the long interview of Dr. Fauci. He has done a great job through this disaster and he has almost become a rock-star by now. But in the middle of this interview he seemed to hit a black hole. He said we don't want to get to the point where HC workers on the front lines don't have the materials and equipment they need. WTF? Someone should buy him a TV.

2) See the interview with Schumer beginning at 29:00. See especially what he says about Trump's use- and lack of use- of the DPA at 31:00. He is almost catatonic on the topic, as am I. I hope he and other Dems in Congress do what I say two paragraphs above about this.

https://www.youtube.com/watch?v=a1xYT0VpG-8

What if FDR had waited until the late fall of 1943 to order industry to produce for the war effort? It might have given Germany or Japan time to develop their own nuke. The Russians, of course, had Klaus Fuchs feeding secrets from Los Alamos to them. We’re lucky he wasn't working for the Germans. The idea of a nuclear bomb had been around since the 1890's.

L. William Harding
Fresno
Dear City Council,

I hope this email finds you well.

My name is Eric from The Custom Brander. Instagram: @thecustombrander | www.thecustombrander.com

We are clothing and accessories manufacturers founded in Toronto, Canada with factories located in Vietnam.

With the recent pandemic going on, the majority of our production efforts have been shifted towards making masks to combat the spread of COVID-19.

We currently have one flagship design that is washable and reusable. The masks are made in Vietnam (the first country to contain SARS and CORONAVIRUS without any deaths).

Please see images of the masks:
Here are our prices:

100-499 pieces @ 73 cents USD per piece + shipping
500-1,000 pieces @ 68 cents USD per piece + shipping
1,001-5,000 pieces @ 64 cents USD per piece + shipping

Additionally, we can supply 3M’s KN95 masks
Here are our prices:

1,000-1,999 pieces @ $3.10 USD each. This price includes express DHL shipping globally.

2,000-3,999 pieces @ $2.90 USD each. This price includes express DHL shipping globally.

4,000-4,999 pieces @ $2.70 USD each. This price includes express DHL shipping globally.

5,000 pieces @ $2.40 USD each. This price includes express DHL shipping globally.

*Please see pictures of the masks below. Kindly see attached file for the fact sheet about 3M masks. The filters for both N95 and KN95 models are both rated at an equal 95% filter performance. We can supply you with KN95 model.
We can supply you with hospital gloves too.

Here are our prices:

1 carton (10 boxes per carton, 50 pairs per box, 500 pairs in total) @ $287 USD per carton. This price includes express DHL shipping globally.
*We can also supply face shields + hand sanitizers. Please let us know your quantity requirements so that we can recommend the best options for you.

*We ship worldwide

*Kindly let us know if you are interested in placing orders or if you require more information.

*We are all in this fight together. Never give up. Stay safe and thank you for your time.

Best regards,

Eric

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TCB BRANDING INC.
@thecustombrander

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Hi City Council,

I am writing to get information and further to object any plan to allow the current cell towers of verizon (or any other) to emit 5G signal which is a huge health concern.

I am in the stage of gathering information regarding FCC regulations on 5G and trying to organize if possible.

Can you please let us know what the current status is regarding the cell towers's installation rate (how many towers in the city and map if possible) and operating status (4G LTE vs 5G) or where we can get information from?

Best regards,
Jason Li