Pursuant to **AB 361** Palo Alto City Council meetings will be held as “hybrid” meetings with the option to attend by teleconference/video conference or in person. To maximize public safety while still maintaining transparency and public access, members of the public can choose to participate from home or attend in person. Information on how the public may observe and participate in the meeting is located at the end of the agenda.

**HOW TO PARTICIPATE**

**VIRTUAL PARTICIPATION**

**CLICK HERE TO JOIN**  [(https://cityofpaloalto.zoom.us/j/362027238)](https://cityofpaloalto.zoom.us/j/362027238)

Meeting ID: 362 027 238   Phone:1(669)900-6833

The meeting will be broadcast on Cable TV Channel 26, live on YouTube at [https://www.youtube.com/c/cityofpaloalto](https://www.youtube.com/c/cityofpaloalto), and streamed to Midpen Media Center at [https://midpenmedia.org](https://midpenmedia.org).

**IN PERSON PARTICIPATION REQUIREMENT:**

- Provide Proof of Vaccination or negative COVID-19 test (taken within 48 hours) and a photo ID
- Wear a mask at all times
- Maintain social distancing
- If you cannot or do not wish to comply, you can still participate virtually

**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.

**PUBLIC COMMENTS**

Public Comments will be accepted both in person and via Zoom meeting. All requests to speak will be taken until 5 minutes after the staff’s presentation. Written public comments can be submitted in advance to city.council@cityofpaloalto.org and will be provided to the Council and available for inspection on the City’s website. Please clearly indicate which agenda item you are referencing in your email subject line.
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

CLOSED SESSION (5:00 - 6:40 PM)
Public Comments: Members of the public may speak to the Closed Session item(s); three minutes per speaker.

1. CONFERENCE WITH CITY ATTORNEY- EXISTING LITIGATION Subject: Miriam Green v. City of Palo Alto Santa Clara County Superior Court Case No. 16CV300760 (One Case, as Defendant) Authority: Government Code Section 54956.9(d)(1)

AA1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS Authority: Government Code Section 54956.8 Property: 300 Homer Avenue, Assessor’s Parcel Number 120-17-093 Negotiating Party: Palo Alto Museum City Negotiators: Ed Shikada, Kiely Nose Subject of Potential Negotiations: Lease Price and Terms of Payment

SPECIAL ORDER OF THE DAY (6:40 - 7:00 PM)

2. Proclamations Recognizing the Heroic Acts of Orlando Kent and Benjamin Bellamy

ADJOURN REGULAR MEETING & CALL TO ORDER JOINT SPECIAL MEETING

STUDY SESSION (7:00 - 8:30 PM)

3. Study Session to Provide Background and Information on Federal and State Laws and Recent Court Case Law Affecting the Placement of Wireless Telecommunications Facilities Within the City, and Overview of Staff Workplan to Update Wireless Ordinance and Standards.

ADJOURN JOINT SPECIAL MEETING & RECONVENE REGULAR MEETING

AGENDA CHANGES, ADDITIONS AND DELETIONS

PUBLIC COMMENT (8:30 - 8:50 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.
CONSENT CALENDAR (8:50 – 9:00 PM)
Items will be voted on in one motion unless removed from the calendar by three Council Members.

4. Approve a Task Order for the Office of the City Auditor to Conduct the Utility Work Order Process and Accounting Review as Recommended by the Policy and Services Committee

5. Approval of the Office of the City Auditor (OCA) Annual Report as Recommended by the Policy and Services Committee

6. Approval of Amendment Number 2 to Contract Number C19170648 With Salas O'Brien Engineers, Inc., for Professional Design Services for the 12kV Electrical Distribution Network Rehabilitation Project at the Regional Water Quality Control Plant under the Plant Repair, Retrofit, and Equipment Replacement capital project (WQ-19002) to add Services, Increase Compensation by $149,586 for a New Not-to-Exceed Amount of $560,397, and Extend the Schedule for Performance Through February 29, 2024

7. Approval of Contract Amendment Number 1 to the Following Six Contracts: Contract Number C21177994A with 4LEAF, Inc., C21177994B with SAFEbuilt, C21177994C with Bureau Veritas, C21177994D with Independent Code Consultants, Inc., C21177994E with Shums Coda Associates and C21177994F with TRB+Associates, to Increase the Total Contract Sum Across all Six Contracts by $350,000 (Due to Usage for Public Safety Building Inspector of Record Services) for a New Six-Contract Pool Total Not-to-Exceed Amount of $6,350,000

8. Approve Amendment No. 1 to Contract C17165347 with TetraTech to Extend the Term from November 30, 2021 to November 20, 2023 Date Correction in title only

9. Approval of Construction Contract Number C22182345 with Wickman Development and Construction in the Amount of $284,000, and Authorization for the City Manager to Negotiate and Execute Change Orders Up to a Not-to-Exceed Amount of $28,400 for the Civic Center Waterproofing Study and Repairs Project, Capital Improvement Program Project PE-15020

10. Approval of an Exemption from Competitive Solicitation by Council Action per PAMC 2.30.330, and Approval of a Contract with Lew Edwards Group for one year and a not-to-exceed amount of $101,695, for Community Engagement and Ballot Measure Strategy and Preparation Services Relating to Potential Revenue-Generating November 2022 Ballot Measure Supplemental Memo Added
11. Approval of Two Professional Services Agreements With GDS Associates, Inc. and Raftelis Financial Consultants, Inc. for On-Call, As-Needed Rate Design and Financial Consulting Services for a Total Not-to-Exceed Amount of $1 per Agreement; and Approval to Select One or More Consultants Under Either Agreement for a Not-to-Exceed Amount of $250,000 per Year over the 5 Year Term

CITY MANAGER COMMENTS

ACTION ITEMS

12. Review Three Grade Separation Design Alternatives for Churchill Avenue and Confirm Which Alternative(s) Continue Towards Selection of Preferred Alternative, and Direction to City Staff for Conducting Additional Studies for Consideration of Final/Preferred Alternative; and Authorize Staff to Negotiate with AECOM for Additional Scope of Work for Amendment to the Contract (Continued from November 1, 2021) (8:30 PM—9:30 PM) Moved to November 29th

13. Adoption of a Resolution Creating a Sibling City Relationship with City of Bloomington, Indiana, and Authorizing the Mayor to Execute A Sibling City Agreement (9:00 – 9:30 PM) Supplemental memo added

AA2. Review and Recommend Renter Protection Policies for Development and Implementation (Continued from November 8, 2021 meeting) (9:30 – 10:20 PM)

14. Review and Provide Direction to Staff on Terms of Lease between the City of Palo Alto and the Palo Alto History Museum for the ROTH Building (300 Homer Ave) (10:20 - 11:30 PM) Supplemental memo added

COUNCIL MEMBER QUESTIONS, COMMENTS, ANNOUNCEMENTS
Members of the public may not speak to the item(s)

ADJOURNMENT

INFORMATION REPORTS
Information reports are provided for informational purposes only to the Council and the public but are not listed for action during this meeting’s agenda.

AMENDED AGENDA ITEMS
Items that have been added/modified from the original publication of the agenda are listed below. Any corresponding materials are appended to the end of the initial packet. If full items have been added to the Agenda, they will be denoted with a number staring with AA, meaning Amended Agenda item
AA1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code Section 54956.8
Property: 300 Homer Avenue, Assessor’s Parcel Number 120-17-093
Negotiating Party: Palo Alto Museum
City Negotiators: Ed Shikada, Kiely Nose
Subject of Potential Negotiations: Lease Price and Terms of Payment

8. Approve Amendment No. 1 to Contract C17165347 with TetraTech to Extend the Term from November 30, 2021 to November 30, 2023

Date Correction in title only

10. Approval of an Exemption from Competitive Solicitation by Council Action per PAMC 2.30.330, and Approval of a Contract with Lew Edwards Group for one year and a not-to-exceed amount of $101,695, for Community Engagement and Ballot Measure Strategy and Preparation Services Relating to Potential Revenue-Generating November 2022 Ballot Measure

Supplemental Memo Added

12. Review Three Grade Separation Design Alternatives for Churchill Avenue and Confirm Which Alternative(s) Continue Towards Selection of Preferred Alternative, and Direction to City Staff for Conducting Additional Studies for Consideration of Final/Preferred Alternative; and Authorize Staff to Negotiate with AECOM for Additional Scope of Work for Amendment to the Contract (Continued from November 1, 2021) (8:30 PM—9:30 PM) Moved to November 29th

AA2. Review and Recommend Renter Protection Policies for Development and Implementation (Continued from November 8, 2021 meeting)

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OTHER INFORMATION
Standing Committee Meetings

Finance Committee Meeting November 16, 2021 - Canceled

City Schools Liaison Committee November 18, 2021
Schedule of Meetings
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.

**CLICK HERE TO JOIN**  Meeting ID: 362 027 238  Phone:1(669)900-6833
Meeting Date: 11/15/2021

Title: CONFERENCE WITH CITY ATTORNEY- EXISTING LITIGATION  Subject: Miriam Green v. City of Palo Alto  Santa Clara County Superior Court Case No. 16CV300760 (One Case, as Defendant)  Authority: Government Code Section 54956.9(d)(1)

From: Molly Stump, City Attorney
Meeting Date: 11/15/2021

Title: Proclamations Recognizing the Heroic Acts of Orlando Kent and Benjamin Bellamy

From: City Manager

Lead Department: City Clerk

Attachments:
  - Attachment2.a: Attachment A: Orlando Kent
  - Attachment2.b: Attachment B: Benjamin Bellamy
Proclamation

RECOGNITION AND APPRECIATION FOR
ORLANDO KENT

WHEREAS, on the morning of Wednesday, August 18, 2021, a stabbing occurred at an intersection in downtown Palo Alto. The female suspect walked up behind a 16-year-old girl who was crossing the street, attacked her with a knife, and pulled her to the ground in a crosswalk; and

WHEREAS, Orlando Kent was driving through downtown Palo Alto when he witnessed the assault, and saw the suspect straddling the victim with the knife still in her hand. Mr. Kent immediately parked his car and ran to the victim’s aid; and

WHEREAS, after the suspect ignored Mr. Kent’s repeated requests to put the knife and then tried to attack the victim again, Mr. Kent tackled the suspect off of the victim, wrestled the knife away from her, and pinned her down to the ground with the help of another Good Samaritan until officers from the Palo Alto Police Department arrived to take the woman into custody; and

WHEREAS, despite sustaining major injuries to her upper body, the victim is fortunately on the path to a full recovery; and

WHEREAS, Mr. Kent’s selfless and heroic actions to protect a complete stranger, at incredible personal risk to himself, most certainly saved the life of the young woman.

NOW, THEREFORE, I, Tom DuBois, Mayor of the City of Palo Alto on behalf of the entire City Council do hereby recognize the heroic act and expresses sincere appreciation to Orlando Kent.

PRESENTED: November 15, 2021

____________________________
Tom DuBois
Mayor
RECOGNITION AND APPRECIATION FOR
BENJAMIN BELLAMY

WHEREAS, on the morning of Wednesday, August 18, 2021, a stabbing occurred at an intersection in downtown Palo Alto. The female suspect walked up behind a 16-year-old girl who was crossing the street, attacked her with a knife, and pulled her to the ground in a crosswalk; and

WHEREAS, Benjamin Bellamy was walking his dog in the area when he heard screaming. He saw the suspect on top of the victim with a knife in her hand. Mr. Bellamy immediately ran to the victim’s aid; and

WHEREAS, after another Good Samaritan tackled the suspect off the victim and wrestled the knife away from her, Mr. Bellamy assisted in pinning the suspect down to the ground until officers from the Palo Alto Police Department arrived to take the woman into custody; and

WHEREAS, despite sustaining major injuries to her upper body, the victim is fortunately on the path to a full recovery; and

WHEREAS, Mr. Bellamy’s selfless and heroic actions to protect a complete stranger, at great personal risk to himself, most certainly contributed to saving the life of the young woman.

NOW, THEREFORE, I, Tom DuBois, Mayor of the City of Palo Alto on behalf of the entire City Council do hereby recognize the heroic act and expresses sincere appreciation to Benjamin Bellamy.

PRESENTED: November 15, 2021

______________________________
Tom DuBois
Mayor
Summary Title: Wireless Communication Facilities Update

Title: Study Session to Provide Background and Information on Federal and State Laws and Recent Court Case Law Affecting the Placement of Wireless Telecommunications Facilities Within the City, and Overview of Staff Workplan to Update Wireless Ordinance and Standards.

From: City Manager

Lead Department: Planning and Development Services

Recommendation:
This is a Study Session with the City Council, Planning and Transportation Commission (PTC), and Architectural Review Board (ARB) to review recent legal and regulatory changes that affect development of wireless communication facilities in the City, along with an overview of Staff’s anticipated workplan. No action is required.

Executive Summary:
Staff is in the process of revising requirements for the development standards and processing of wireless communication facilities. With that in mind, the intent of this Study Session is to provide an overview of the legal landscape that affects the City’s wireless policy development. Staff has engaged with an outside counsel that specializes in wireless communications facilities that will assist with drafting an update to the ordinance as well as presenting the information in this staff report. This report provides 1) a background of the federal and state regulatory framework, 2) a summary of recent changes in federal and state regulations, and 3) court decisions that affect the City’s processing of applications for wireless communication facilities. The report also provides an overview of staff’s workplan to complete amendments to the Palo Alto Municipal Code (PAMC) 18.42.110\(^1\) and to the City’s design standards for Wireless Communication Facilities in the Public Rights of Way on Streetlight Poles and Wood Utility Poles (wireless standards)\(^2\).

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\(^1\) https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-36264#JD_18.42.110

\(^2\) https://cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=75074.3&BlobID=74989
Background:
On April 15, 2019, the City Council introduced an ordinance to update PAMC 18.42.110 and adopted objective standards for small wireless facilities via a resolution. This was in response to federal and state law and the Federal Communications Commission (FCC) order in 2018 regarding regulations placed on local jurisdictions for processing wireless telecommunications facilities. Subsequently, on May 13, 2019, the ordinance was adopted after a second reading.

At the April 15, 2019 meeting,


the Council directed staff to return with an updated ordinance/resolution on a variety of topics. On December 16, 2019, the Council adopted Resolution No. 9873 containing updates to the wireless objective standards. On February 12, 2020, the PTC held a public hearing regarding proposed draft ordinance amendments and after discussion, continued the public hearing to a date uncertain to provide time for staff to address Commissioners’ questions. The question topics related to three core concerns: (1) what circumstance is appropriate to refer projects to the ARB for review that might result in fewer exceptions to the standards; (2) circumstances when wireless facilities applications require alternative analysis; and (3) additional description on figures used for distance analysis between wireless facilities and structures including residences.

Since the adoption of the ordinance update and wireless objective standards, there has been a challenge to the federal regulations in court. The Ninth Circuit Court of Appeals upheld the Moratoria Order and significant portions of the Small Cell Order, including the shorter shot clocks, remedies for failing to meet a shot clock, the new effective prohibition test, and fee limitations. However, the Court invalidated the FCC’s rule requiring aesthetic standards to be objective. The City now refers to these standards as ‘wireless standards’ rather than ‘wireless objective standards.’ Further information is provided in the following sections.

Wireless Communications Facility (WCF) Development
Applications for wireless communication facility (WCF) projects, in general, have consistently been an area of interest and concern for Palo Alto residents. Over the past five years, the City reviewed approximately 70 wireless facilities applications. Some of these applications included multiple sites. The majority of these sites were located within the City right-of-way on wood utility or street light poles. Other applications considered were replacements or modifications of existing facilities on private property.
These WCF applications are categorized as Tier 1, 2 or 3 applications, depending on the scope of the proposed work. Tier 1 WCF applications are “eligible facilities requests” as defined by federal regulations and are decided by the Director of Planning and Development Services (Director) and the decision is not appealable. Tier 2 and Tier 3 WCF applications can be decided by the Director and may be referred to the ARB for recommendation. Tier 2 and Tier 3 WCF applications may be appealed to the City Council.

With increasing demand for services and wireless devices using cellular data, it is anticipated that there will be continued interest by carriers to place additional WCFs within the City to achieve carrier goals, such as to address service coverage gaps. The City recognizes the concerns of the residents regarding the:
- siting of wireless facilities,
- aesthetic impression these facilities have upon the public streetscape,
- City’s need to meet evolving Federal and State wireless regulatory requirements, and
- concerns of carriers to upgrade their networks.

Given these circumstances, staff are working to update the code. The following discussion provides the legal framework for those updates, and an overview of staff’s workplan.

**Discussion:**

**Federal and State Regulatory Framework**

The City has authority over the siting of wireless communications facilities; however, its authority is limited by various federal and state laws. The principal restrictions on local wireless siting authority are found in a federal law dating from 1996 (47 U.S.C. § 332(c)(7)). Federal law:

1. Requires action on applications to be within a reasonable period of time.
2. Provides that local regulations and placement decisions may not prohibit or effectively prohibit provision of personal wireless services.
3. Requires that denials must be in writing and supported by substantial evidence.
4. Prohibits any consideration of radiofrequency (RF) emissions in siting decisions if an applicant meets FCC standards.
5. Does not allow unreasonable discrimination among providers of functionally equivalent services.
6. Provides for expedited appeals to court.

In addition, in 2012, Congress adopted a law (codified as 47 U.S.C. § 1455) requiring that certain applications to modify or add to existing wireless facilities must be approved at the local level. These are known as “eligible facilities requests” and are discussed further below.
In addition to these federal statutes, the FCC has adopted numerous orders interpreting federal law and imposing additional restrictions on local governments. These and other restrictions and requirements in state law are discussed below.

Ban on Moratoria
On August 2, 2018, the FCC adopted a Third Report & Order and Declaratory Ruling, 33 FCC Rcd. 7705 (rel. Aug. 3, 2018)\(^5\) (the “Moratoria Order”). This ruling contained a declaratory ruling prohibiting moratoria on processing and construction of personal wireless services, telecommunications services, and their related facilities. This means that there can be no pause in accepting or processing applications to allow a city to study and address potential issues.

Shot Clocks and Deemed Granted Remedies
Since 2009, the FCC has adopted a total of five “shot clocks” or timelines within which to act on applications for wireless facilities.

2009 Shot Clocks
In 2009, the FCC adopted a Declaratory Ruling, 24 FCC Rcd. 18994 (rel. Nov. 18, 2009)\(^6\), establishing two “shot clocks” for local action on wireless facilities applications, a 90-day shot clock for collocations\(^7\), and a 150-day shot clock for all other types of wireless applications.

State Deemed Granted Remedy
California later adopted AB 57 (Gov. Code 65964.1), effective since January 1, 2016, and created a “deemed granted” remedy for applicants if the local government fails to act on an application during the time allowed by these 90 and 150-day FCC shot clocks. This remedy is available for any applications under these shot clocks other than those proposed for placement on fire department facilities.

Eligible Facilities Requests
In 2014, the FCC adopted an implementing Order, including height and size criteria and a 60-day shot clock to process these “eligible facilities requests”, (29 FCC Rcd. 12865). More recently, the FCC adopted clarifications and changes to its rules to further facilitate these types of installations that are discussed further below. A failure to act within this FCC shot clock period can result in the application being deemed approved under federal law.

Small Wireless Facilities Shot Clocks and Effective Prohibition Test

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\(^7\) Collocations means the mounting or installation of transmission equipment on an existing eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
On September 26, 2018, the FCC adopted a Declaratory Ruling and Third Report and Order, 33 FCC Rcd. 9088 (rel. Sep. 27, 2018) (the “Small Cell Order”), which, among other things:

- Created new shorter (60-day and 90-day) shot clocks for small wireless facilities (as defined in the Small Cell Order);
- Interpreted existing shot clock regulations to require local public agencies to issue all relevant permits and authorizations within this period;
- Established a national “material inhibition” standard for an effective prohibition related to small wireless facilities that replaced the existing “significant gap” test adopted by the United States Court of Appeals for the Ninth Circuit; and
- Provided that a failure to act within the applicable timeframe constitutes an effective prohibition.

The Small Cell Order went into effect in part on January 14, 2019, and in part on April 15, 2019. When the City adopted its small wireless facilities regulations, this Order was in effect but subject to a legal challenge, discussed further below.

Limits on Design Standards

The Small Cell Order also placed limits on aesthetic regulations for small wireless facilities, including undergrounding equipment. The FCC declared that such requirements will not be preempted if they are:

- reasonable,
- no more onerous than those applied to other types of infrastructure installations, and
- objective and published in advance so that applicants know what aesthetic requirements they must satisfy to be able to establish facilities.

When the City adopted its objective design standards this Order was in effect but subject to a legal challenge, discussed further below.

In addition to the federal limits, longstanding California state law (Pub. Util. Code Section 7901) grants telephone companies (including wireless carriers) a franchise to use the public rights-of-way. Section 7901 broadly empowers a local authority to regulate a telephone corporation’s facilities to ensure that they do not preclude the public use of the public right-of-way. This includes aesthetic considerations, so that aesthetic or other regulations imposed on the wireless carriers cannot be so restrictive to effectively keep the wireless carriers out of the public right-of-way entirely. Such restrictions could violate the wireless carriers’ franchise rights under Section 7901.

Limits on Fees

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8 See, T-Mobile W. LLC v. City & City. of San Francisco, 438 P.3d 239, 249 (2019)
Longstanding state law (Gov. Code 50030) limits local telecommunications facilities permit processing fees to costs. AB 1027 adopted in 2011 limits pole attachment fees municipal utilities can charge for use of utility poles by communications providers to costs of providing the service for which the fee is charged and must not be levied for general revenue purposes. This does not apply to streetlight poles.

The FCC’s Small Cell Order declared that all fees for small wireless facilities (including permit fees and rental fees for use of government-owned infrastructure, such as streetlights) must be based on a reasonable approximation of the local government’s costs. This is such that only objectively reasonable costs are factored into those fees, and fees are no higher than the fees charged to similarly situated competitors in similar situations. The FCC also established presumably reasonable fee levels (called “safe harbors”) that include non-recurring fees equal to $500 for a single application for up to five collocations, plus $100 for each additional collocation, and $1,000 for each new pole. Recurring fees for attachment to municipal poles are presumed reasonable if equal to $270 per facility/per year, including the fee for attachment to municipal infrastructure and use of the public rights-of-way. When the City adopted its wireless regulations, this Order was in effect but subject to a legal challenge, discussed further below.

The state legislature has twice adopted small cell bills like the FCC Small Cell Order, and both those bills were vetoed (SB 649 by Governor Brown in 2017; SB 556 by Governor Newsom in 2021). Despite these vetoes, federal law still governs.

Recent Legal Developments
Since the City adopted its wireless ordinance and related resolutions in 2019, there have been further developments in federal and state laws that impact the City’s ability to regulate wireless installations.

Litigation over FCC Small Cell Order
On August 12, 2020, a three-judge panel of the Ninth Circuit Court of Appeals upheld the Moratoria Order and significant portions of the Small Cell Order, including the shorter shot clocks, remedies for failing to meet a shot clock, the new effective prohibition test, and fee limitations. However, the Court invalidated the FCC’s rules for aesthetic standards requiring the standards to be no more burdensome than those applied to other types of infrastructure installations and be objective.

Now, a city’s aesthetic regulations for small wireless facilities will not be preempted by federal law if they are: (1) reasonable (technically feasible) and (2) published in advance. On October 22, 2020, the Ninth Circuit Court of Appeals denied a petition for full court review of the panel’s decision. On June 28, 2021, the U.S. Supreme Court denied a petition to hear the case, ending the litigation.
Updates to Eligible Facilities Request Rules

On June 9, 2020, the FCC adopted a Declaratory Ruling (FCC 20-75; 35 FCC Rcd 5977)\(^9\) that provided clarifications regarding its existing eligible facilities request rules (in 47 C.F.R. § 1.6100). Notably, the order explained that the protections for “concealment elements” can only exist if the initially-approved site is “stealth,” meaning it was designed to look like something other than a wireless tower or base station. The FCC also explained that the four-cabinet limit for equipment cabinets applies to each modification request. In other words, it is not cumulative across all modifications to an existing base station or tower. Finally, the FCC said that the measurements for cumulative changes in height apply only to the supporting structure. The height of any new antennas does not count in this calculation, and the FCC did not establish any limit for the height of those new antennas.

On October 27, 2020, the FCC adopted a Report and Order (FCC 20-153; 35 FCC Rcd 13188) that established a new rule that changed part of its existing eligible facilities request rules. Specifically, the new rule allowed for expansion or excavation up to 30 feet outside of the boundaries of the existing site for towers outside of the public right-of-way without it being considered a substantial change. Expansion or excavation beyond the original approved site boundaries would have previously disqualified the project from being an eligible facilities request.

The purpose of these rule changes was to further expand the ability for applications to qualify as eligible facilities requests.

AB 2421: State Preemption of Local Authority over Certain Backup Generators

On January 1, 2021, California’s AB 2421 (Gov. Code 65850.75) took effect and will remain in effect until January 1, 2024. The law requires that applications for qualifying backup generators on macro cell sites be approved within a 60-day deadline. An application is deemed approved if the local agency has not acted on the application within the time period. The law does not apply to rooftop, small wireless facilities, or outdoor and indoor distributed antenna system sites.

SB 537: Expansion of California Deemed Granted Remedy

On October 4, 2021, Governor Newsom signed SB 537. The bill will go into effect January 1, 2022. It expands Government Code section 65964.1 to provide a deemed granted remedy for small wireless facility applications. Now all types of wireless applications with FCC shot clocks have a deemed granted remedy\(^10\) either in state or federal law.

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\(^10\) Deemed granted means the application is approved by operation of the law rather than by the city issuing an approval. A deemed granted remedy is one that allows the applicant to claim that the circumstances have been
**Proposed Work Program**

Following the February 12, 2020 PTC meeting, staff’s focus was redirected away from the wireless update to address COVID-19 pandemic and pandemic-related issues. Staff continued to keep track of the changes in the regulatory context for wireless communications facilities and received ongoing feedback from carriers and members of the public. During this time, staff continued to process wireless facility applications. Council has also provided feedback on wireless policy via its discussion of wireless application appeals. To assist staff with the drafting of a new ordinance and to respond to the evolving regulatory landscape, the City Attorney’s office engaged outside legal counsel that specializes in wireless communication facility law. A representative from this firm will be present at the meeting and lead the presentation before the City Council, ARB and PTC.

The proposed work program includes:

1. Preparation of an ordinance for adoption that updates PAMC 18.42.110 (Wireless Communication Facilities).
2. Preparation of a resolution for adoption that updates the aesthetic standards for wireless communication facilities.

Goals for this work program include ongoing staff responsiveness to City Council direction to evaluate the effectiveness of the wireless ordinance. An additional goal is reconciling the changes in federal and state law and the recent court decision with the City’s current wireless policies. A further goal is to streamline the application and review process, resulting in a process that is more predictable and less of a strain on staff resources to implement.

The work program includes preparing staff reports and exhibits and presenting these to the PTC, ARB and the City Council with recommended actions.

**Timeline:**

The following is the tentative schedule for updating the PAMC 18.42.110 and the objective standards:

- PTC: December 2021
  - Review the draft ordinance, staff recommendations, and follow-up items from met for its application to be deemed granted without needing to wait for city action. The main trigger is that the city failed to take action on the application within the established FCC shot clock. There are some other requirements that must be met to trigger the state law deemed grants. The usual path is the city will receive a letter from the applicant claiming that the city did not act on time and the application is now deemed granted and the city may not stop issuance of other related permits (if any) or construction. And then the city will have to decide if it has a basis for challenging the deemed granted claim, typically by going to court.
previous meeting. No formal recommendation on draft ordinance.

- **ARB**: February 2022 through April
  - Wireless standards discussion and recommendation
- **PTC**: May 2022
  - Review of and recommendations on draft ordinance and wireless standards
- **City Council**: June 2022
  - Action on revised wireless ordinance and resolution for wireless standards

**Environmental Review:**
The California Environmental Quality Act (CEQA) does not apply to this study session since it not considered a “project” under CEQA.
Meeting Date: 11/15/2021

Title: Approve a Task Order for the Office of the City Auditor to Conduct the Utility Work Order Process and Accounting Review as Recommended by the Policy and Services Committee

From: City Manager

Lead Department: City Auditor

Recommendation

The Policy and Services Committee recommends that the City Council approve the Office of the City Auditor’s Work Order Process & Accounting Review Task Order.

Discussion

In accordance with Baker Tilly’s agreement with the City, the Office of the City Auditor is required to conduct activities each year. Those recurring activities include the execution of audits defined in the Audit Plan Presented to and Approved by P&S on February 9, 2021 and subsequently Presented to and Approved by City Council on March 1, 2021.

The Office of the City Auditor is seeking approval from the City Council of a Task Order to conduct the Utility Work Order Process & Accounting Review. Preliminary audit objectives include:

- Perform an initial assessment to identify high risk sub-processes in the work order process (e.g., labor, materials, specific utility).
- Document and evaluate the processes and controls in place to ensure proper recording of costs.
- Perform tests to determine the accuracy of attributed costs for a sample of completed work orders.

The Policy & Services Committee unanimously approved the task order at the October 12th meeting (ID # 13604).

Resource Impact

The budget for each Task Order noted above aligns to the previously approved budget for the Office of the City Auditor, the agreement with Baker Tilly, and the approved Audit Plan. Thus,
there is no additional resource impact associated with this item.

**Environmental Impact**

Environmental review is not applicable to this activity.

**Attachments:**

- Attachment4.a: Task Order 11 – FY22 – Work Order Accounting & Process
Consultant shall perform the Services detailed below in accordance with all the terms and conditions of the Agreement referenced in Item 1A below. All exhibits referenced in Item 8 below are incorporated into this Task Order by this reference. The Consultant shall furnish the necessary facilities, professional, technical and supporting personnel required by this Task Order as described below.

1A. MASTER AGREEMENT NO. (MAY BE SAME AS CONTRACT / P.O. NO. ABOVE):
1B. TASK ORDER NO.: FY21-001
2. CONSULTANT NAME: Baker Tilly US, LLP
3. PERIOD OF PERFORMANCE: START: October 1, 2021 COMPLETION: March 31, 2022
4. TOTAL TASK ORDER PRICE: $84,900
   BALANCE REMAINING IN MASTER AGREEMENT/CONTRACT: Remaining in Task 4 FY22: $600,000
5. BUDGET CODE
   COST CENTER
   COST ELEMENT
   WBS/CIP
   PHASE
6. CITY PROJECT MANAGER’S NAME & DEPARTMENT:
   Lydia Kou, Chair of the City Council’s Policy and Services Committee
7. DESCRIPTION OF SCOPE OF SERVICES (Attachment A)
   MUST INCLUDE:
   ▪ SERVICES AND DELIVERABLES TO BE PROVIDED
   ▪ SCHEDULE OF PERFORMANCE
   ▪ MAXIMUM COMPENSATION AMOUNT AND RATE SCHEDULE (as applicable)
   ▪ REIMBURSABLE EXPENSES, if any (with “not to exceed” amount)
8. ATTACHMENTS: A: Task Order Scope of Services   B (if any): N/A

I hereby authorize the performance of the work described in this Task Order.  

I hereby acknowledge receipt and acceptance of this Task Order and warrant that I have authority to sign on behalf of Consultant.

APPROVED:  
CITY OF PALO ALTO  

BY: __________________________    BY: __________________________
Name __________________________        Name __________________________
Title __________________________        Title __________________________
Date __________________________        Date __________________________
Attachment A
DESCRIPTION OF SCOPE OF SERVICES

Introduction

Attachment A, the Description of Scope of Services, contains the following four (4) elements:

- Services and Deliverables To Be Provided
- Schedule of Performance
- Maximum Compensation Amount and Rate Schedule (As Applicable)
- Reimbursable Expenses, if any (With “Not To Exceed” Amount)

Services & Deliverables

Baker Tilly’s approach to conducting the Work Order Process Review involves three (3) primary steps:

- Step 1: Audit Planning
- Step 2: Process and Control Review
- Step 3: Reporting

Step 1 – Audit Planning

This step consists of the tasks performed to adequately plan the work necessary to address the overall audit objective and to solidify mutual understanding of the audit scope, objectives, audit process, and timing between stakeholders and auditors. Tasks include:

- Gather information to understand the environment under review
  - Understand the organizational structure and objectives
  - Review the City code, regulations, and other standards and expectations
  - Review prior audit results, as applicable
  - Review additional documentation and conduct interviews as necessary
- Assess the audit risk
- Write an audit planning memo and audit program
  - Refine audit objectives and scope
  - Identify the audit procedures to be performed and the evidence to be obtained and examined
- Announce the initiation of the audit and conduct kick-off meeting with key stakeholders
  - Discuss audit objectives, scope, audit process, timing, resources, and expectations
  - Discuss documentation and interview requests for the audit
Step 2 – Process and Control Review
This step involves executing the procedures in the audit program to gather information, interview individuals, and analyze the data and information to obtain sufficient evidence to address the audit objectives. The preliminary audit objective is to: (1) Determine whether adequate controls are in place and working effectively around the work order process; (2) Assess the work order process against best practices. Procedures include:

- Interview the appropriate individuals to understand the process, the information system used, and internal controls related to the work order process
- Review policies and procedures as well as the regulations and standards to identify the criteria to be used for evaluation of control design and effectiveness
- Perform a test of key internal controls on a sample basis
- Compare the process and controls against the best practices

Step 3 – Reporting
In Step 3, the project team will perform tasks necessary to finalize audit working papers, prepare and review a draft report with the stakeholders, and submit a final audit report. Tasks include:

- Develop findings, conclusions, and recommendations based on the supporting evidence gathered
- Validate findings with the appropriate individuals and discuss the root cause of the identified findings
- Complete supervisory review of working papers and a draft audit report
- Distribute a draft audit report and conduct a closing meeting with key stakeholders
  - Discuss the audit results, findings, conclusions, and recommendations
  - Discuss management responses
- Obtain written management responses and finalize a report
- Review report with members of City Council and/or the appropriate Council Committee
- Present the final report to the City Council and/or appropriate Council Committee

Deliverables:
The following deliverables will be prepared as part of this engagement:

- Audit Report

Schedule of Performance

Anticipated Start Date: October 1, 2021
Anticipated End Date: December 31, 2022
Maximum Compensation Amount and Rate Schedule
The not-to-exceed maximum, inclusive of reimbursable expenses (as summarized below) for this Task is $81,400. The not-to-exceed budget is based on an estimate of 400 total project hours.

Reimbursable Expenses
If circumstances allow, Baker Tilly anticipates planning one on-site fieldwork week. Given this possibility, Baker Tilly could incur reimbursable expenses for this Task.

The not-to-exceed maximum for reimbursable expenses for this Task is $3,500.

The following summarizes anticipated reimbursable expenses (for two team members):
• Round-trip Airfare – $1000
• Rental Car - $400
• Hotel accommodation - $1600 (4 nights)
• Food and incidentals – $500

Note that, if current restrictions associated with COVID-19 continue, an on-site visit may not be possible. The project team will work with the City to consider circumstances at the time.
Meeting Date: 11/15/2021

Title: Approval of the Office of the City Auditor (OCA) Annual Report as Recommended by the Policy and Services Committee

From: City Manager

Lead Department: City Auditor

Recommendation

The Policy and Services Committee recommends that City Council approve the Office of the City Auditors Annual Report.

Executive Summary

In accordance with Task 5 of our agreement with the City, Baker Tilly is required to report annually on a variety of topics, generally including progress to plan. The Office of the City Auditor (OCA) has drafted a written Annual Report, generally covering the OCA’s progress to plan. The below summarizes progress as organized by Baker Tilly’s agreement with the City (i.e., by Task). Highlights in the report and in the oral presentation include the following:

- Task 1 – City Wide Risk Assessment
  - Presented to and Approved by P&S on February 9, 2021
  - Presented to and Approved by City Council on March 1, 2021

- Task 2 – Prepare an Annual Audit Plan
  - Presented to and Approved by P&S on February 9, 2021
  - Presented to and Approved by City Council on March 1, 2021

- Task 3 – Assist in Managing the Financial Audit
  - FY20 Audit Presented to and Approved by Finance Committee on December 1, 2020
  - FY20 Audit Presented to and Approved by City Council on January 11, 2021
  - Single Audit Report Presented to and Approved by City Council on May 10, 2021

- Task 4 – Execute Audit Plan
  - Kicked-off Nine (9) of Ten (10) Approved Task Orders
  - Completed Field Work for Five (5) Projects
  - One (1) Report Presented to and Approved by Policy & Services
  - Three (3) Reports Pending Presentation to Policy & Services in
October/November 2021

- Task 5 – Periodic Reporting and Hotline Monitoring
  - Closed Two of Two (2/2) Hotline Reports Received in CY21
  - Presented Quarterly Reports
  - Perform Follow-up Activities on Prior Audit Findings and Corrective Action Plans
  - Participated in Various Meetings, Including City Council, Executive Leadership, Agenda Planning, and Committee Meetings

- Task 6 – City Auditor evaluation
  - N/A – To Be Completed in FY22

The OCA presented the Annual Report to the Policy and Services Committee at the October 12th meeting (ID # 13604). The Policy and Services Committee unanimously approved the report.

Discussion
The attached report summarizes the OCA’s progress to plan as well as progress on corrective action plans for prior audit findings for audit activities completed in FY18-FY20.

Timeline, Resource Impact, Policy Implications
The annual report does not have timeline, resource impact, or policy implications.

Stakeholder Engagement
The Office of the City Auditor worked primarily with City Manager’s Office and Executive Leadership to obtain updates on implementation of corrective action plans in response to prior audit findings.

Environmental Review
Environmental review is not applicable to this activity.

Attachments:
- Attachment5.a: OCA Annual Report
Introduction

The City Auditor is appointed by and reports functionally to the City Council. The City Charter defines the City Auditor's important role and furthers the City Council's commitment to internal auditing, transparency, and accountability in government. The Office of the City Auditor (OCA) conducts audits and reviews including reviews of the effective and efficient use of resources, internal control systems, and compliance with policies, procedures, and regulatory requirements.

The Palo Alto City Council approved a contract through June 2022 with an option to extend for three years with advisory, tax, auditing, and assurance firm Baker Tilly US, LLP (Baker Tilly) and appointed Kyle O’Rourke, MPA, CIA, CGAP, CRMA, Principal in Baker Tilly's Public Sector practice, as City Auditor on September 28, 2020. This report is intended to communicate our accomplishments over the first year of our work.

Accomplishments

Per City Council direction on February 10, 2020, the City Council Appointed Officers (CAO) Committee oversaw a request for proposals (RFP) process for outsourced internal auditing services, led a procurement process aligned with City Council direction, and engaged in a transparent review of scope of work services, RFP evaluation, and a public interview process as part of the overall effort. Following these public interviews, the City Council conducted closed session interviews of the City Auditor candidates designated by the top firms recommended by the CAO Committee.

Through the RFP process and interviews, the City Council selected Baker Tilly and Kyle O’Rourke to lead the City’s internal audit services. Kyle O’Rourke was appointed as Palo Alto’s City Auditor in conformance with the Palo Alto City Charter (Contract No. C2117934).

Risk Assessment & Audit Plan Development

In its capacity serving as the City Auditor function, and in accordance with Baker Tilly's agreement with the City, Baker Tilly performed a citywide risk assessment. The purpose of the assessment was to identify and prioritize risks in order to develop the annual audit plan. During the risk assessment, Baker Tilly assessed a wide range of risk areas, including strategic, financial, operational, compliance, technological, and reputation risks. The results of the assessment were transmitted to the full City Council for public review and was approved by the Policy and Services Committee on February 9, 2021 (Report 11952).

On March 1, 2021, the Risk Assessment Report and Annual Audit Plan were approved by City Council (Report 12022). At that time, eight (8) task orders were approved for execution. At a subsequent meeting on May 10, 2021, two (2) additional task orders were approved for execution (Report 12110).
Execution of the Audit Plan

Between March and September 2021, Baker Tilly has formally kicked off nine (9) of ten (10) approved audit activities, including those listed below:

- Construction Project Controls
- Public Safety Building Construction
- Asset Capitalization
- Assessment of SAP Functionality and Internal Controls
- Information Technology Risk Management
- Power Purchase Agreement
- Economic Recovery Advisory
- Building Permit & Inspection Process
- Nonprofit Agreements Risk Management

The current status of each audit activity, as of September 30, is highlighted on the following page.
<table>
<thead>
<tr>
<th>Function</th>
<th>Project Title</th>
<th>Audit Objectives</th>
<th>Status</th>
<th>Detail</th>
</tr>
</thead>
</table>
| Public Works      | Construction Project Controls Assessment          | • Identify key processes and controls in the construction project management program.  
• Assess the control environment and make recommendations for improvement.                                                                                                                                       | Report Drafted  | Report is drafted and is under review by process owners, CMO, and the City Attorney’s Office.                                                                                                         |
| Public Works      | Construction Audit – Public Safety Building       | • Assess the control environment and make recommendations for improvement.  
• Establish monthly procedures to evaluate project billing and analyze change orders, and evaluate other key risk areas.                                                                                          | In Progress     | First monthly monitoring memo to be delivered at November P&S                                                                                                                                           |
| Administrative Services | Asset Capitalization Audit                     | • Identify the cause of the $12.6M capital asset adjustment made during FY2020 by evaluating the process to record and report the costs associated with CIP  
• Determine whether adequate controls are in place to ensure that costs associated with CIP are properly categorized and recorded in accordance with the accounting policy and relevant accounting standards | Report Drafted  | Final Draft Report was presented at the August 10, P&S meeting (Report 13461) and will be presented to Council for consent.                                                                         |
| Information Technology | Assessment of SAP Functionality and Internal Controls (FY21) | • Participate as an advisor to the project steering committee for Phase 2 of the ERP system upgrade.  
• Evaluate internal control design as system configuration is analyzed.                                                                                                                                            | Report Drafted  | Report is drafted and is under review by process owners, CMO, and the City Attorney’s Office.                                                                                                         |
| Information Technology | IT Risk Management Assessment                    | • Identify key risks and controls within the IT function – including IT governance and IT security.  
• Evaluate the adequacy of the control environment and offer recommendations for improvement.                                                                                                                     | Report Drafted  | Report to be presented at the October 12 P&S meeting.                                                                                                                                                  |
| Utilities         | Power Purchase Agreement Review                   | • Evaluate the process for evaluating and entering into power purchase agreements.  
• Assess the effectiveness of internal controls in the management of the power purchase agreements and accuracy and compliance of billings.                                                                  | Report Drafted  | Report is drafted and is under review by process owners, CMO, and the City Attorney’s Office.                                                                                                         |
| Administrative Services | Economic Recovery Advisory                      | • Review the City’s long-term financial planning model and offer recommendations for improvement.  
• Identify and evaluate key revenue source categories that present long term risk to the City’s financial sustainability and perform scenario analysis.  
• Offer ad hoc advisory assistance during the FY22 budget process.                                                                                                                                         | In Progress     | Formal kick-off took place in September 2021.                                                                                                                                                        |
| Planning          | Building Permit & Inspection Process Review       | • Identify highest impact area to focus the assessment (e.g., specific permit type(s), specific sub-processes, etc.).  
• Document corresponding process(es) and evaluate for efficiency and effectiveness.  
• Benchmark operational performance against industry practices and established standards.                                                                                                                        | In Progress     | Reviewing data requested in August.                                                                                                                                                                 |
| Citywide          | Nonprofit Agreements Risk Management Review       | • Evaluate controls in place to ensure that nonprofit organizations are properly vetted prior to selection and monitored through the life of an agreement.  
• Assess the performance monitoring process against the best practice.  
• Follow up on relevant audit findings from past audit work.                                                                                                                                                | In Progress     | In the fieldwork phase of this audit activity.                                                                                                                                                        |
| Utilities         | Work Order Process and Accounting Review          | • Perform an initial assessment to identify high risk subprocesses in the work order process (e.g., labor, materials, specific utility).  
• Document and evaluate the processes and controls in place to ensure proper recording of costs.  
• Perform tests to determine the accuracy of attributed costs for a sample of completed work orders.                                                                                                    | Awaiting Task Order Signature | The Task Order will be provided to P&S on October 12th for review and approval.                                                                                                                          |
The OCA proposed multiple other audit activities to be commenced in FY22. Those audit activities include:

- Investment management
- Application Lifecycle Management
- SAP Functionality and Internal Controls (Phase 2)
- Wastewater Treatment Plant Agreement

The OCA will complete the FY22 risk assessment and audit planning process in order to determine if the above list continue to be priorities for the OCA.

**Financial Audit Coordination**

The OCA is tasked with assisting in the management of the external financial audit. Given the timing of the contract approval, the majority of the fieldwork for the FY20 audit was completed prior to Baker Tilly’s engagement with the City. In FY21, Baker Tilly assisted in presenting the financial audit results for FY20.

On December 1st, Macias Gini O’Connell LLP (MGO) presented the following audit reports to the Finance Committee for review and approval (Report 11741):

- Auditor’s Report to the City Council (the “Management Letter”)
- Cable TV Franchise, Independent Auditor’s Report and Statements of Franchise Revenues and Expenses for the Years Ended December 31, 2018 and 2019
- Palo Alto Public Improvement Corporation Annual Financial Report for the Year Ended June 30, 2020
- Regional Water Quality Control Plant Independent Auditor’s Report and Financial Statements for the Year Ended June 30, 2020

City Council subsequently approved the financial audit reports listed above on January 11, 2021 (Report 11880).

The Single Audit report was presented to the Finance Committee and approved on April 6, 2020 (Report 12107) and was approved by City Council on May 10, 2021 (Report 12108).

The contract with MGO was set to end with the completion of the FY20 external financial audit activities. Given the extraordinary circumstances of the COVID-19 Pandemic, the OCA initiated an exception to competitive solicitation in order to extend the contract to cover one additional year – the FY21 financial audit activities. The contract amendment to extend the MGO contract was approved by City Council on April 12, 2021 (Report 12106).

As of September 2021, the external financial audit for FY21 is underway and is expected to be completed for delivery to the Finance Committee in December 2021. Additionally, the OCA is working with Administrative Services to issue a Request for Proposals (RFP) for external financial audit services beginning at the conclusion of FY22.

**Monitoring of Prior Audit Findings**

The City Auditor is responsible for monitoring prior audit findings and verifying whether corrective actions have been implemented as planned and approved by City Council. The OCA reviewed prior audit reports from FY18-FY20 in order to follow up on the audit findings and corrective actions. Note that all reports were the work of the prior in-house City Auditor. Moving forward, the OCA will continue to monitor whether corrective actions are implemented as described by the auditee during the close out of our audit activities. The findings, corrective action plans, and current status to those audit reports are summarized on the following pages.
<table>
<thead>
<tr>
<th>Audit Report</th>
<th>Report Date</th>
<th>Finding</th>
<th>Recommendation</th>
<th>Responsible Department(s)</th>
<th>Initial Management Response (upon audit completion)</th>
<th>Current Status As of 9/30/21</th>
<th>Implementation Update As of 9/30/21</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accuracy of Utility Water Meter Billing Audit</td>
<td>08/16/17</td>
<td>Finding 1: CPAU has not adequately prevented, detected, nor corrected water meter billing errors.</td>
<td>1.1. Correct the billing errors identified.</td>
<td>Utilities</td>
<td>Concurrence: Agree</td>
<td>Completed</td>
<td>Staff completed the field inspection and the customer accounts were adjusted on November 2017.</td>
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<td>Target Date: November 2017</td>
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<td>Action Plan: Utilities staff is confirming the specific addresses and errors cited in the audit. Staff will then take immediate actions to rectify the overcharge situation by contacting the customers and updating their accounts with the correct meter charge as well as reconciling the incorrect charges for the past three years. For the undercharge or backbill scenario, staff plans to recommend City Council approval to modify current meter billing policy and eliminate mandated customer backbilling for utility-caused metering errors under certain circumstances.</td>
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<td>Completed</td>
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<td>Field audit work is completed and Staff will review the meter exceptions against the audit photos and perform a physical inspection if required. After verification, meter records will be updated accordingly.</td>
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<td>The billing errors identified were corrected in August 2017. Council approved on 4/2/2018 ID# 9024, updated Utility Rule and Regulation 11 to include in Section 1 as a new section 4: “When CPAU is the cause of an error that results in an overcharge, CPAU will refund the full amount of the overcharge, subject to the three year retroactive billing adjustment period described above. Back bills for undercharges will be calculated and approved by the Director of Utilities, or delegate, and may be waived over $500 per Customer Account, per incident, subject to the three year retroactive billing adjustment period described above.”</td>
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<tr>
<td>Accuracy of Utility Water Meter Billing Audit</td>
<td>08/16/17</td>
<td>Finding 1: CPAU has not adequately prevented, detected, nor corrected water meter billing errors.</td>
<td>1.2. Investigate each of the 123 water meters that do not match the meter purchasing record, determine if a record or billing correction is required, and correct accordingly.</td>
<td>Utilities</td>
<td>Concurrence: Agree</td>
<td>Completed</td>
<td>Staff completed the field inspection and the customer accounts were adjusted on November 2017.</td>
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<td>Target Date: November, 2017</td>
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<td>Target Date: November, 2017</td>
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<td>Action Plan: Staff has completed an initial inspection of the 123 meters in the field. Staff will need to conduct further investigation on a few of the accounts to confirm meter type, pipe connection size, and dial register. Thus far, staff has confirmed 84 water meters did not match the meter or billing record. Staff will take the necessary actions to rectify the overcharges and undercharges.</td>
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<tr>
<td>Accuracy of Utility Water Meter Billing Audit</td>
<td>08/16/17</td>
<td>Finding 1: CPAU has not adequately prevented, detected, nor corrected water meter billing errors.</td>
<td>1.3. Review and correct the meter record errors identified for meter sizes larger than 2 inches.</td>
<td>Utilities</td>
<td>Concurrence: Agree</td>
<td>In Progress</td>
<td>Field audit work is completed and Staff will review the meter exceptions against the audit photos and perform a physical inspection if required. After verification, meter records will be updated accordingly.</td>
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<td>Target Date: December 2016</td>
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<td>Target Date: December 2016</td>
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<td>Action Plan: In preparation for the new CIS Utility billing system and potential advanced meter deployment, staff will consider an in-house or contract service audit of the three metered services (electric, gas, water). Staff will also review and update as needed roles and responsibilities for key staff involved in ensuring meter accuracy, including procurement, inventory, testing, installation, and billing records management.</td>
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<tr>
<td>Accuracy of Utility Water Meter Billing Audit</td>
<td>08/16/17</td>
<td>Finding 1: CPAU has not adequately prevented, detected, nor corrected water meter billing errors.</td>
<td>1.4. Explore options for addressing equity when making changes to customer meter size rates and establish a policy and process for determining, documenting, and notifying customers of changes to their meter size and, if appropriate, the rate change associated with the new meter size.</td>
<td>Utilities</td>
<td>Concurrence: Agree  Target Date: July 2018  Action Plan: a) Explore options for addressing equity when making changes to customer meter size rates and establish a policy and process for determining, documenting, and notifying customers of changes to their meter size and, if appropriate, the rate change associated with the new meter size.</td>
<td>Completed</td>
<td>Council approved on 4/16/2019 ID# 10149, staff updated to charge all residential customers with 5/8&quot;, 3/4&quot;, and 1&quot; meters, which include fire flow, a uniform monthly service fee.</td>
</tr>
<tr>
<td>Accuracy of Utility Water Meter Billing Audit</td>
<td>08/16/17</td>
<td>Finding 1: CPAU has not adequately prevented, detected, nor corrected water meter billing errors.</td>
<td>1.5. With the understanding that CPAU will be migrating to a new ERP system: a) Implement a temporary monitoring or reporting system to identify record discrepancies that may result in billing errors and correct as discrepancies are identified.  b) Ensure the new ERP system will have automated controls in place to prevent such discrepancies and identify them if they do occur.</td>
<td>Utilities</td>
<td>Concurrence: Agree  Target Date: December 2019  Action Plan: a) Staff has established a monthly reconciliation report to monitor and identify inconsistent billing and meter attributes which will ensure comprehensive detection of potential error sources across inventory, meter change activity, and billing databases.  b) Elimination of redundant manual entry has already been identified as a system requirement for the new CIS system. Staff will monitor the ongoing procurement for a new customer information system and enterprise resource planning system to ensure system requirements continue to prioritize minimizing manual entry through integration across databases and automated data entry.</td>
<td>Completed</td>
<td>a) Completed - Reconciliation Report created and used periodically to identify any meter discrepancies in ERP/CIS system.  b) Completed - In FY 2022, staff is working on the scope of work for the Phase 2 upgrade to the City's existing ERP system. This identified desired system requirement for new automated controls is included in this review process for potential final inclusion in the Phase 2 of the project.  The implementation of a new ERP was cancelled and the City chose to remain on the current ERP platform with SAP. The City has completed a technical upgrade of the current ERP system and is planning a Phase 2 of this upgrade to leverage potential additional tools which is scheduled to be completed in FY 2023 - FY 2024.</td>
</tr>
</tbody>
</table>

5.a Packet Pg. 35
<table>
<thead>
<tr>
<th>Audit Report</th>
<th>Report Date</th>
<th>Finding</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Accuracy of Utility Water Meter Billing Audit</td>
<td>08/16/17</td>
<td>Finding 2: CPAU has installed 1,178 water eMeters throughout the City, however, there are no testing standards, and the accuracy, performance, and reliability of these meters are uncertain.</td>
<td>2.1. Develop a policy and procedure to transparently report significant, systemic, infrastructure changes to City Council, and update any CPAU Rules and Regulations that may be outdated to current practice or affected by policy changes.</td>
<td>Utilities</td>
<td>Concurrence: Agree Target Date: Immediately Action Plan: Major infrastructure changes are presented to City Council for approval. However, standards are technical documents that provide the general conditions and specifications for the construction of the Water Gas and Wastewater System. Updates to standards are subject to multiple levels of professional review including engineering, procurement and legal. Updated standards will be communicated to City Council as informational when substantive.</td>
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<td>Completed</td>
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<tr>
<td>Accuracy of Utility Water Meter Billing Audit</td>
<td>08/16/17</td>
<td>Finding 2: CPAU has installed 1,178 water eMeters throughout the City; however, there are no testing standards, and the accuracy, performance, and reliability of these meters are uncertain.</td>
<td>2.2. Seek direction and approval from City Council before proceeding further with the future installation of eMeters or any electronic meters.</td>
<td>Utilities</td>
<td>Concurrence: Agree Target Date: Ongoing Action Plan: Procurement and installation of e-meters will remain suspended until adoption of an AWWA standard for testing and the availability of independent test resources (either in-house or contracted). It is expected that a final standard for testing of E-meters will be available at the end of 2017. The new standards are not expected to change the accuracy requirements from those expected of the positive displacement meter with the exception that there will likely be an extended range of accuracy for low flows. It should be noted the E-Meters is a specific product line, and mechanical meters may also have electronic components.</td>
<td></td>
<td>Completed</td>
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The item was updated as complete and accepted by the Auditor's office on 6/11/2019. In collaboration with ASD, the following control processes are in place to transparently report changes:

1. Purchasing Policies and Procedures: a. Sole Source Standardization process; b. Contracts for professional services over $85,000 require Council approval
2. Utility Rule and Regulations
3. Meter and Specification Update
4. Utilities Engineering Electric and WGW Construction Standards

This item was updated as complete and accepted by the Auditor's office on 6/11/2019. The American Water Works Association (AWWA) standards for electromagnetic and ultrasonic water meters were published in October 2018. After staff's review and meeting with other water agencies and consultants, staff has decided not to install new ultrasonic water meters until the technology matures. At this time, Utilities will not be adopting the new electromagnetic and ultrasonic water meter standards. Utilities will notify Council in the future when Utilities adopt the new AWWA electromagnetic and ultrasonic water meter standards.
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| **Accuracy of Utility Water Meter Billing Audit** | 08/16/17 | Finding 2: CPAU has installed 1,178 water eMeters throughout the City however, there are no testing standards, and the accuracy, performance, and reliability of these meters are uncertain. | 2.3. Determine if the 1,178 installed eMeters should be uninstalled and replaced with the original displacement meter and if billing adjustments are required. | Utilities | Concurrence: Agree  
Target Date: July 2018  
Action Plan: All customers with e-meters installed will be immediately notified of this audit, and that additional information will be provided as available. For eMeter testing, staff will send a sampling of eMeters to independent testing companies to determine if they are performing per manufacturer specification, and based on these results will determine next steps. In addition, the Water Meter Shop has staffing challenges and does not currently have the resources required to undertake this replacement project. At this time, staff will continue to monitor the meter reads for irregularities of both the installed positive displacement and eMeters as part of the billing exception process. Staff is also developing a customer plan for addressing any accuracy concerns with the e-meters already installed. | Completed  
This item was updated as complete and accepted by the Auditor's office on 6/11/2019. Staff hired a contractor to test a sampling of eMeters. The contractor tested the eMeters under four different scenarios. Overall, the testing results measured correctly within the manufacturer’s specifications. Based on manufacturer’s test results, third party sampled testing and monthly meter readings of eMeters, staff believes these meters are functioning properly and does not recommend replacing them until their end of life. Customer with eMeters were notified of the opportunity to replace the eMeters with positive displacement meters. |
| **Accuracy of Utility Water Meter Billing Audit** | 08/16/17 | Finding 3: Purchase of water eMeters did not conform to standardization and sole source policies, and eMeter expenditures were not monitored. | 3.1. ASD Purchasing to clarify its purchasing policy and procedures for new and renewals of product standardization and sole source. | ASD | Concurrence: Agree  
Target Date: December 2017  
Action Plan: Staff will update the policy and coordinate with stakeholders to ensure the policy is clear and easy to follow. Staff will then finalize the policy and disseminate to departments. | In Progress  
This has been implemented and is part of the standard procedures for sole source and standardization requests. In FY 2022, by the close of the 3rd Quarter staff expect to have the formal policy drafted and finalized updating the purchasing manual standardization and sole source section as well as any necessary forms.  
For Standardization Requests (new & renewals), the requesting department creates a PR and submits Appendix E Form for a standardization request. Once the standardization request is approved, the Purchasing department files a copy and the requesting department receives a copy. In addition to requesting an approval for standardization, the requesting department also submits the Appendix E form for a sole source when procuring the standardized product if not available by multiple distributors. The approved sole source is filed with Purchasing in the Master Library under exemptions and a copy provided to the requesting department. Expenditures for Standardize products (sole source or not) are manually tracked by Purchasing.  
Expected Completion Date: FY 2022 Q4 |
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| Accuracy of Utility Water Meter Billing Audit | 08/16/17    | Finding 3: Purchase of water eMeters did not conform to standardization and sole source policies, and eMeter expenditures were not monitored. | 3.2. ASD Purchasing to retrain appropriate ASD and CPAU staff on Purchasing policies and procedures, and completion of required forms. | ASD                       | Concurrence: Agree  
Target Date: January 2018  
Action Plan: In conjunction with 3.1 staff will provide training. | Completed                     | The business process has been updated, see the current process in recommendation 3.1, and is currently in place citywide. |
| Accuracy of Utility Water Meter Billing Audit | 08/16/17    | Finding 3: Purchase of water eMeters did not conform to standardization and sole source policies, and eMeter expenditures were not monitored. | 3.3. ASD Purchasing to determine roles and responsibilities and develop a procedure for tracking Sole Source purchases to prevent the overspending of approved amounts. | ASD                       | Concurrence: Agree 
Target Date: March 2018  
Action Plan: The SAP system does not currently provide an automated check on sole source spending. Staff will evaluate whether the system can be configured to allow for this. If not, staff will implement manual procedures to track sole source spending. | Completed                     | Staff has implemented a manual procedure for tracking expenditures for standardized products (sole source or not) on a document by the Purchasing staff. The current business process also ensures that sole source form requires a PR for funding and processing, thereby creating a record and authorization amount in the ERP system as well. |
| Overtime Audit             | 09/06/17    | Implementing a continuous monitoring process for overtime in the new Enterprise Resource Planning (ERP) environment can help the City improve its resource allocation and utilization. | 1. Explore the potential of developing a continuous monitoring process to provide more detailed information on overtime usage so that management can better manage and control overtime costs. A continuous monitoring system could include data analytics to extract data on service demands, absences and vacancies, and elements of city policies and contractual requirement that could be useful in identifying opportunities to reduce overtime costs. | ASD                       | Concurrence: Agree  
Target Date: 4th Quarter 2018  
Action Plan: ASD will work with departments to explore the potential of developing a continuous monitoring process for overtime. | Completed                     | Staff has implemented a business process to provide departments citywide with routine financial monitoring reports for revenues and expenses in the City’s General Fund. This report, sent at least monthly, provides budget to actual comparisons as well as multiple potential forecasts based on routine models such as historic trends to assist in better management of costs, including overtime. Departments are responsible for the monthly monitoring of expenditures and quarterly financial status reports continue to be provided to identify any areas of concern throughout the year. The implementation of a new ERP was cancelled and the City chose to remain on the current ERP platform with SAP. The City has completed a technical upgrade of the current ERP system and is planning a Phase 2 of this upgrade to leverage potential additional tools which is scheduled to be completed in FY 2023 - FY 2024. As part of this phase 2, staff will include this as a desired change, if feasible and cost effective. |
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| Overtime Audit | 09/06/17 | Implementing a continuous monitoring process for overtime in the new Enterprise Resource Planning (ERP) environment can help the City improve its resource allocation and utilization. | 2. Form a work group consisting of main end users and stakeholders to design shared system capabilities and standardized overtime management processes in the new ERP environment by:  
- Identifying useful overtime data (including their source, and user interface (e.g., dashboard with drilldown and reporting capabilities)) that allow users to analyze pertinent overtime factors shown in Appendix 1 in a comprehensive manner.  
- Identifying manual data collection and auxiliary processes (e.g., billing, reimbursement) that can be automated.  
- Reviewing applicable ERP system requirements to ensure needed capabilities are included in the City’s ERP contract. | ASD | Concurrence: Agree  
Target Date: 4th Quarter 2018  
Action Plan: ASD will work with departments to determine shared needs for overtime in the new ERP system. Staff is currently evaluating ERP solutions for payroll and core financials and staff has communicated the important of overtime reporting to the vendors. Once an ERP solution is selected staff will finalize overtime reporting requirements and build those requirements into the new ERP system with the implementation consultants. | Completed | Staff has implemented a business process to provide departments citywide with routine financial monitoring reports for revenues and expenses in the City’s General Fund. See recommendation #1 for this item for current manual process. |
| Business Registry Audit | 08/28/18 | The City’s business registry data was not reliable. Data that MuniServices LLC started collecting under contract with the City in 2018 should be more reliable, but there is opportunity for further improvement. | 1. Identify and consult with key stakeholders (e.g., City Council, Planning and Community Environment Department) who use the business registry to clarify existing and potential uses and priorities for business registry data. Based on these consultations, review and modify the questions, as necessary that the City asks businesses to self-report. | City Manager’s Office, Development Services, Planning and Community Environment, and Transportation | Concurrence: Agree  
Target Date: June 30, 2019  
Action Plan: Development Services Department (DSD) will lead an effort to gather feedback from internal department stakeholders as noted in the column to the left. The department may also discuss the registry with external stakeholders. Staff will return to City Council for a recommendation prior to the 2020 Business Registry cycle. | On-Hold | The City Council paused collection of the BRC fees due to COVID-19 and the impact on businesses in the community. The Council has also actively reviewing scenarios for a potential November 2022 local ballot measure, specifically on impacting business; the decision on this potential tax measure will impact the priorities for the BRC program moving forward. Staff supporting this program has been vacant and therefore significantly impacting capacity to both address changes to this program and support the pursuit of a local ballot measure.  
NOTE: In FY 2020, the Business Registry Certificate (BRC) program was reallocated from the former Development Services Department to the Administrative Services Department with the merging of the Development Services Department and the Planning and Community Environment Department. This function specifically was determined to best be placed in Administrative Services where the majority of taxes and administrative fees are handled by various teams with the Treasury Division of the department.  
Expected completion date: TBD |
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<td>Business Registry Audit</td>
<td>08/28/18</td>
<td>The City's business registry data was not reliable. Data that MuniServices LLC started collecting under contract with the City in 2018 should be more reliable, but there is opportunity for further improvement.</td>
<td>2. As part of a broader strategy to improve the reliability of the business registry, explore and assess the cost versus benefit of the following options, which may work in synergy:</td>
<td>ASD</td>
<td>Concurrency: Agree Target Date: June 30, 2019 Action Plan: DSD agrees to explore and assess the cost versus the benefit of the suggested options. Staff will return to the City Council during the Fiscal Year 2020 budget cycle with any associated program recommendations. Staff does intend to utilize MuniServices business discovery and analytics services prior to the 2019 Business Registry cycle. This service will utilize external sources acquired by MuniServices. Staff will also meet with the Utilities and Information Technology departments to discuss data sharing.</td>
<td>Completed</td>
<td>As noted above, the BRC program was reallocated to the Administrative Services Department in FY 2020. <strong>June 2020 Management Update (CMR: 11111)</strong> The verification of business data is done through the discovery process performed by Avenu Insights &amp; Analytics. City Council approved a new contract with Avenu Insights &amp; Analytics on 12/2/19 (CMR #10493) that included ways for increasing the accuracy of BRC data. This contract outlined Avenu Insights &amp; Analytics using resources such as their own proprietary database sources, the State of California Sales Tax data, Santa Clara County Real Property data, Dun &amp; Bradstreet, and InfoUSA for verifying the accuracy of the BRC database. Data sources used varies by availability and coverage area. Additionally, to begin discovery services, the contract states Staff provides business fee and business and occupation application forms as well as database files such as commercial utility billing records to Avenu Insights &amp; Analytics. The Palo Alto Transportation Management Association (PATMA) provided staff with business data gathered through in-person observations of downtown businesses to assist in keeping the BRC database accurate. This was provided to the Avenu Insights &amp; Analytics discovery services team to inform their efforts. Staff will explore the future of making this a regular source of information provided.</td>
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| Business Registry Audit | 08/28/18 | The City’s business registry data was not reliable. Data that MuniServices LLC started collecting under contract with the City in 2018 should be more reliable, but there is opportunity for further improvement. | 3. Update the Development Services business registry administrative manual to reflect Development Services’ new project management and contract administrator roles and responsibilities. The update should incorporate:  
  - The City’s guidelines for contract administration roles and responsibilities that are available in the City’s Procurement Fundamentals Training Guide.  
  - Specific steps to monitor the reliability of the registry data. This can include basic steps to periodically review trends and validate the consistency, accuracy, and completeness of a | ASD | Concurrence: Agree  
Target Date: December 31, 2018  
Action Plan:  
DSD will update the administrative manual prior to the 2019 Business Registry Cycle. Staff does intend to review reliability of the registry data prior to the launch of each annual collection cycle and to include reference to this practice in the administrative manual. | On-Hold | The City Council paused collection of the BRC fees due to COVID-19 and the impact on businesses in the community. The Council is also actively reviewing scenarios for a potential November 2022 local ballot measure, specifically on impacting business; the decision on this potential tax measure will impact the priorities for the BRC program moving forward including the administration. Staff supporting this program has been vacant and therefore significantly impacting capacity to both address changes to this program and support the pursuit of a local ballot measure.  
NOTE: In FY 2020, the Business Registry Certificate (BRC) program was reallocated from the former Development Services Department to the Administrative Services Department with the merging of the Development Services Department and the Planning and Community Environment Department. This function specifically was determined to best be placed in |
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| ERP Planning: Data and System Governance | 06/13/18 | Finding 1: Better information technology governance can help ensure that IT systems, including the new ERP system, support City goals, and objectives | 1. Assign roles and responsibilities for IT governance (e.g., “chief governance officer”) to an existing City position that reports or could potentially report directly to the City Manager or the Chief Information Officer. The roles and responsibilities should include:  
- Ensuring that City departments and stakeholders who are the users of the City's information systems are included in governance processes and decision making, including decisions to address security risks.  
- Ensuring that there is a process to validate the accuracy and completeness of key IT reports that are used in decision making or reporting (e.g., the City’s document that shows decisions on addressing risks identified in the Coalfire report; decisions regarding departmental roles and responsibilities for the new ERP system).  
- Ensuring that governance covers all key Information Technology | Concurrence: Agree  
Target Date: December 31, 2019  
Action Plan: The IT Department implemented IT Governance citywide in 2012 and since then it has been rightsized to reflect the evolving needs of the City. The roles and responsibilities for a leader in IT governance have already been assigned to an individual who reports to the Chief Information Officer (CIO). The IT Department agrees that work is required to address gaps in our city IT governance processes today including leadership roles, communications, reporting, and decision-making. | Closed | Administrative Services where the majority of taxes and administrative fees are handled by various teams with the Treasury Division of the department.  
Expected completion date: TBD |

As outlined in the audit, the Information Technology Department (ITD) does have citywide governance in place and assigned to staff. This recommendation has been superseded by the ITD Risk Assessment and recommendations within as completed by Baker Tilly in October 2021. This updated assessment extends beyond this identified ITD scope to a broader citywide perspective.
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<td>ERP Planning: Data and System Governance</td>
<td>06/13/18</td>
<td>Finding 1: Better information technology governance can help ensure that IT systems, including the new ERP system, support City goals, and objectives</td>
<td>1.2. Adopt an industry standard IT Governance frameworks, such as COBIT, and a process assessment and rating or maturity model, such as the COBIT 5 process assessment model. Create a plan to achieve a process capability model of 3 (i.e., &quot;established&quot;) or higher for: • IT staffing and funding • IT governance roles and responsibilities • Aligning IT with departments’ priorities • Measuring and monitoring IT governance outcomes • Identifying and mitigating IT risks</td>
<td>Information Technology</td>
<td><strong>Concurrence:</strong> Agree. <strong>Target Date:</strong> December 31, 2019 <strong>Action Plan:</strong> IT Department agrees to identify and adopt an appropriate, rightsized, industry-recognized, IT governance framework. The IT Department working with the City Manager’s Office will determine the appropriate level of IT Governance maturity required for enabling organizational success.</td>
<td><strong>Closed</strong></td>
<td>As outlined in the audit, the Information Technology Department (ITD) does have citywide governance in place and assigned to staff. This recommendation has been superseded by the ITD Risk Assessment and recommendations within as completed by Baker Tilly in October 2021. This updated assessment extends beyond this identified ITD scope to a broader citywide perspective.</td>
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<td>ERP Planning: Data and System Governance</td>
<td>06/13/18</td>
<td>Finding 2: Better citywide data governance will lead to better data in the new ERP system</td>
<td>2.1. Assign roles and responsibilities for data governance (e.g., a &quot;chief data governance officer&quot;) to an existing position that reports or could potentially report directly to the City Manager or the Chief Information Officer.</td>
<td>Information Technology</td>
<td><strong>Concurrence:</strong> Agree. <strong>Target date:</strong> July 1, 2019 <strong>Action Plan:</strong> In January 2017, the IT Department hired a qualified data analyst with responsibility for citywide data governance. The role currently reports up through the Chief Information Officer (CIO). The IT Department agrees to request elevation of this role from City Council to a more senior classification to reflect the increased responsibilities expected as a result of implementing an industry- standard data governance framework.</td>
<td><strong>Closed</strong></td>
<td>The ITD continues to have a data analyst position responsible for citywide governance, however, the City has faced significant financial challenges due to the onset of the COVID-19 pandemic and therefore, have significantly reduced staffing resources to manage financial constraints. Therefore, although staff agree this is a best practice and would like to support it, staff no longer agree with the recommendation to reclassify this role to a move senior classification. The financial impacts of this are not the current highest priority for investment in the current reduced resource environment.</td>
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| ERP Planning: Data and System Governance | 06/13/18 | Finding 2: Better citywide data governance will lead to better data in the new ERP system | 2.2. Adopt an industry standard data governance framework, such as the DAMA-DMBOK, and a process maturity model, such as the COBIT 5 process assessment model. Create a plan to achieve a process capability model of 3 (i.e., "established") or higher for:  
- Inventory  
- Integrity  
- Migration  
- Security & Access  
- Legal Compliance  
- Availability  
- Usability | Information Technology | Concurrence: Agree  
Target date: December 31, 2019  
Corrective Action:  
The IT data lead will work to implement the citywide data strategy that is currently being developed and is part of the FY19-21 IT strategy. Adoption of a standard data governance framework was already identified as a goal in this plan. IT Department agrees to identify and adopt an appropriate, rightsized, industry-recognized, data governance framework. The IT Department working with the City Manager's Office will determine the appropriate level of data governance maturity required for enabling organizational success. | Closed | The ITD continues to have a data analyst position responsible for citywide governance, however, the City has faced significant financial challenges due to the onset of the COVID-19 pandemic and therefore, have significantly reduced staffing resources to manage financial constraints. As identified above, the necessary level of staffing to complete adoption and implementation of a standard data governance framework are not the current highest priority for investment in the current reduced resource environment. |
| ERP Planning: Separation of Duties | 10/17/18 | Finding 1: Implementing effective separation of duties and ensuring well-restricted user access controls for the new ERP system will decrease vulnerabilities and risks. | 1.a. Transfer the task of entering Accounts Payable invoices to ASD Administration and either discontinue Account Payable’s SAP access for entering invoices or, if not possible, create a procedure that can identify if/when an Accounts Payable invoice is entered by an Accounts Payable employee for supervisory review.  
1.b. Have Payroll redesign the existing manual controls to mitigate against the high-risk areas of SoD conflict identified.  
1.c. Share with Utilities all relevant SoD practices adopted, and Utilities practices should be consistent with that of ASD. | Administrative Services Department | Concurrence: Agree. Target Date: With new ERP.  
Corrective Action Plan:  
1.a. Explore the possibility of transferring the task of entering Accounts Payable invoices to ASD Administration  
1.b. Explore having Payroll redesign the existing manual controls to mitigate against the high-risk areas of SoD conflict identified in the new ERP.  
1.c. Share with Utilities all relevant SoD practices adopted, and Utilities practices should be consistent with that of ASD. | Closed | 1a. ASD Administration is responsible for completing invoices specifically for services rendered to the AP team. AP staff continued to park and post all stores invoices, however, before parking inventory must be received in SAP by Stores so there is a third party check. This is a large part of AP’s involvement since discrepancies between the inventory or invoice need to be resolved. It would be inefficient to have non-AP staff perform this review.  
1b. AP staff continues to park and post employee reimbursements after receiving approved paperwork from departments. Though not requested, it is expected that requesting departments to park employee reimbursements is inefficient since AP routinely needs to request adjustments after review of the reimbursement paperwork and therefore this would be inefficient.  
1a-c. The implementation of a new ERP was cancelled and the City chose to remain on the current ERP platform with SAP. The City has completed a technical upgrade of the current ERP system and is planning a Phase 2 of this upgrade to leverage potential additional tools which is scheduled to be completed in FY 2023 - FY 2024. As part of this phase 2, staff will include this as a desired change, if feasible and cost effective. |
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<td>ERP Planning: Separation of Duties</td>
<td>10/17/18</td>
<td>Finding 1: Implementing effective separation of duties and ensuring well‐restricted user access controls for the new ERP system will decrease vulnerabilities and risks.</td>
<td>2. Information Technology revisit the design and definition of profiles and roles according to the concept of least privilege, where possible.</td>
<td>Information Technology</td>
<td>Concurrency: Agree Target Date: June 30, 2020 Corrective Action Plan: The plan is to review and modify as appropriate the approach to profiles and roles during the design and implementation phases of the new ERP system. If it makes sense timing wise, the new design will be incorporated back into the legacy system during the project. Determination of value and cost in retrofitting to the legacy system will be made during design.</td>
<td>Closed</td>
<td>The implementation of a new ERP was cancelled and the City chose to remain on the current ERP platform with SAP. The City has completed a technical upgrade of the current ERP system and is planning a Phase 2 of this upgrade to leverage potential additional tools which is scheduled to be completed in FY 2023 - FY 2024. As part of this phase 2, staff will evaluate the value and cost in retrofitting the current system as part of the planning for the phase 2 of the system upgrade.</td>
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<td>ERP Planning: Data Standardization</td>
<td>10/17/18</td>
<td>Finding 1: Implementing data standardization will ensure increased data accuracy and uniformity in the future ERP system.</td>
<td>1. Provide governance over data standardization, such as who is responsible for data standardization, what data is subject to standardization, when does standardization change, etc.</td>
<td>Information Technology</td>
<td>Concurrency: Agree Target Date: Dec 31, 2019 Action Plan: Data standardization and governance are both already priorities of the draft data strategy plan document that is being developed.</td>
<td>Closed</td>
<td>The implementation of a new ERP was cancelled and the City chose to remain on the current ERP platform with SAP. Phase 1 of the upgrade included technical system upgrades and is complete. Phase 2 of the upgrade will consider opportunities for data standardization to the extent feasible. Staff agree that this is best practice, and continue in daily proceedings to make improvements where possible.</td>
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<td>ERP Planning: Data Standardization</td>
<td>10/17/18</td>
<td>Finding 1: Implementing data standardization will ensure increased data accuracy and uniformity in the future ERP system.</td>
<td>2. Review other systems and implement data standardization, where feasible and beneficial; especially in circumstances when the data feeds into SAP.</td>
<td>Information Technology</td>
<td>Concurrency: Agree Target Date: Dec 31, 2019 (For standardization guidance only. Remediation may take significantly longer and will be established once an assessment is made). Action Plan: The plan to implement data standardization across systems beyond SAP will be covered in the City’s upcoming data strategy plan.</td>
<td>Closed</td>
<td>The implementation of a new ERP was cancelled and the City chose to remain on the current ERP platform with SAP. Phase 1 of the upgrade included technical system upgrades and is complete. Phase 2 of the upgrade will consider opportunities for data standardization to the extent feasible. Staff agree that this is best practice, and continue in daily proceedings to make improvements where possible.</td>
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<td>ERP Planning: Data Standardization</td>
<td>10/17/18</td>
<td>Finding 1: Implementing data standardization will ensure increased data accuracy and uniformity in the future ERP system.</td>
<td>3. Work with Departments to review the data within SAP and determine what will benefit most by standardizing data.</td>
<td>Information Technology</td>
<td>Concurrency: Agree Target Date: Dec 31, 2019 Action Plan: The plan to identify data and data stewards for SAP to determine standardization benefits will be covered in the City’s upcoming data strategy plan.</td>
<td>Closed</td>
<td>The implementation of a new ERP was cancelled and the City chose to remain on the current ERP platform with SAP. Phase 1 of the upgrade included technical system upgrades and is complete. Phase 2 of the upgrade will consider opportunities for data standardization to the extent feasible. Staff agree that this is best practice, however, in the absence of the citywide effort to implement a new ERP system and the organization prioritization and additional resources to complete that initiative, this recommendation is no longer relevant.</td>
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<td>ERP Planning: Data Standardization</td>
<td>10/17/18</td>
<td>Finding 1: Implementing data standardization will ensure increased data accuracy and uniformity in the future ERP system.</td>
<td>4. Require Departments to implement data standardization requirements during data cleansing in the ERP transition.</td>
<td>Information Technology</td>
<td>Concurrence: Agree</td>
<td>Target Date: Dec 31, 2019.</td>
<td>Action Plan: This is already a mandatory component of the design phase of implementing the new ERP system.</td>
</tr>
<tr>
<td>Code Enforcement Audit</td>
<td>11/06/18</td>
<td>Finding 1: The City resolves many code enforcement cases effectively; but unclear roles and responsibilities, fragmented Municipal Code requirements, and staffing limitations have hampered timely response and resolution</td>
<td>1.1. Clarify and confirm the City’s code enforcement strategy and priorities with the City Council. Develop an updated enforcement procedure that is aligned with the confirmed strategy for each area of the City’s code enforcement priorities, including case intake, tracking, and reporting. This includes assessment of the regulations that lack an enforcement process or sufficient resources, such as PC district regulations, leaf blower regulations, and conditions of approval requiring the applicant to self-report. Post the updated strategy on the City’s code enforcement web page.</td>
<td>CMO</td>
<td>Concurrence: Agree</td>
<td>Target Date: 12 months after item 1.1 and related process redesign is completed.</td>
<td>Action Plan: The CMO will first coordinate the work of responsible departments on item 1.1 above, and on item 1.2.c to clarify roles and responsibilities in alignment with a revised structure. Once improved practices are clarified, the CMO will work through the CAO and other responsible departments on items 1.2.a, 1.2.b, 1.2.d, and 1.2.e to amend the municipal code as appropriate to improve the administration of code enforcement activities and to align enforcement strategies with organizational responsibilities.</td>
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<td>Code Enforcement Audit</td>
<td>11/06/18</td>
<td>Finding 1: The City resolves many code enforcement cases effectively; but unclear roles and responsibilities, fragmented Municipal Code requirements, and staffing limitations have hampered timely response and resolution</td>
<td>1.2 Update the Municipal Code sections governing code enforcement, including: a) Combining into a single chapter, clarifying, and streamlining the administrative procedures in PAMC Chapters 1.12 and 1.16 to ensure they support current practices and City Council’s intent for code enforcement activities. b) Aligning administrative procedures in other PAMC chapters with the revised administrative procedures</td>
<td>CMO</td>
<td>Concurrence: Agree</td>
<td>Target Date: 12 months after item 1.1 and related process redesign is completed.</td>
<td>Action Plan: The CMO will first coordinate the work of responsible departments on item 1.1 above, and on item 1.2.c to clarify roles and responsibilities in alignment with a revised structure. Once improved practices are clarified, the CMO will work through the CAO and other responsible departments on items 1.2.a, 1.2.b, 1.2.d, and 1.2.e to amend the municipal code as appropriate to improve the administration of code enforcement activities and to align enforcement strategies with organizational responsibilities.</td>
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| Code Enforcement Audit | 11/06/18 | Finding 1: The City resolves many code enforcement cases effectively; but unclear roles and responsibilities, fragmented Municipal Code requirements, and staffing limitations have hampered timely response and resolution | developed in 1.2.a above as needed and streamlining enforcement activities for consistency across City departments, to the extent possible.  
c) Clarifying code enforcement roles and responsibilities to ensure they are aligned with the current organizational structure.  
d) Requiring that permit information and contact information for contractors and responsible City departments be posted at each construction site.  
e) Removing ambiguities or inconsistencies as part of the annual Municipal Code clean up, including specific position titles, which can change over time. | CMO | Concurrence: Agree  
Target Date: Starting 3 months following City Council acceptance of audit report.  
Action Plan: The CMO will convene regular meetings of responsible departments throughout the duration of this corrective action and thereafter routinely convene an interdepartmental working group to monitor and manage the success of the ongoing program. | On-Hold | Upon completion of this audit, an upgrade and evaluation of the 311 system was included as part of the workplan for the City Council’s Fiscal Recovery priority in calendar year 2019. However, due to the prioritization of other projects at this time including the work for pursuit of a November 2020 local ballot measure followed by both the onset of the COVID-19 pandemic and vacancies in key positions, this workplan has been placed on hold. Recommendation remains on hold pending predecessor actions. |
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<td>Code Enforcement Audit</td>
<td>11/06/18</td>
<td>Finding 2: The City does not have complete and reliable code enforcement data to provide useful information for management decisions</td>
<td>2.1. Upon confirming the City’s code enforcement strategy and priorities with the City Council in Recommendation 1.1, that the City Manager coordinate with the City’s code enforcement functions to: a) Identify what complaint data to capture, track, and share internally and externally, b) Define what constitutes a code enforcement case and identify what case data to capture, track, and share internally and externally, c) Determine which system(s) to use and how to track code enforcement data for each function, including standardizing code enforcement terminology citywide, and design reporting processes capable of aggregating the data into a citywide view, d) Develop performance measures for code enforcement as part of the citywide initiative to improve measures for the annual Performance Report.</td>
<td>CMO</td>
<td>Concurrence: Agree Target Date: 12-24 months following City Council’s acceptance of Recommendation 1.1 Action Plan: The CMO will coordinate the work of responsible departments to strengthen citywide data management, including the protection of private and confidential information, related to code enforcement. While performance measures related to code enforcement already exist, considerably improved metrics will be developed (per item 2.1.d) concurrent with the improvement of code enforcement practices throughout this corrective action. Items 2.1.b and 2.1.a are consistent with the priorities of the city’s IT Strategic Plan and may be refined iteratively in coordination with item 2.1.c. Estimates may be required for anticipated resource commitments to support new tasks and/or software investments.</td>
<td>On-Hold</td>
<td>This workplan has been placed on hold and therefore delayed as a result of the onset of the COVID-19 pandemic. September 2021 Update: Recommendation remains on-hold pending predecessor actions.</td>
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<td>Code Enforcement Audit 11/06/18 Finding 2: The City does not have complete and reliable code enforcement data to provide useful information for management decisions</td>
<td>2.2 If it is determined under Recommendation 2.1 that Planning will continue to use Accela, Planning should reconfigure Accela Code Enforcement to enhance data collection and reporting, to pave the way for other functions that may adopt Accela, by: a) Defining each type of code enforcement workflow status and identifying additional status or other data points to be captured. b) Working with the Accela consultant to ensure needed data and documents are captured accurately, consistently, and in a manner that can be extracted for reporting. This may include: - Adding new workflow status and creating additional data fields to capture new data points. - Adding or modifying drop-down lists. - Allowing certain data fields to be modified after initial data entry. c) Developing report templates in Accela for periodic reporting of code enforcement performance measures developed in Recommendation 2.1.d. d) Establishing data entry procedures to prevent errors and improve consistency. This may include: - Establishing naming conventions for attachments. - Ensuring that information displayed on BuildingEye provides sufficient detail for the public to understand the issue, status, and resolution of each case.</td>
<td>CMO</td>
<td>Concurrence: Agree Target Date: Concurrent with item 2.1; 12-24 months following City Council’s acceptance of Recommendation 1.1 Action Plan: The CMO will coordinate the work of Planning and other responsible departments to integrate data collection and reporting functions into the appropriate data management system.</td>
<td>On-Hold</td>
<td>This workplan has been placed on hold and therefore delayed as a result of the onset of the COVID-19 pandemic. The revised workplan targets November 2020 - November 2022 for the remaining implementation milestones. March 2020: The “311” Customer Relationship Management (CRM) system for Code Enforcement required integration of 311 CRM and Accela systems to prevent duplication of effort and potential tracking oversights for both the community and City CEOs. Integration began late 2018 and was impacted by Accela mergers and acquisitions of other companies leading to Accela’s shifting priorities and changes in its organizational structure. CEOs were required to monitor both systems and adopted an ‘interim’ process to help minimize issues caused by having two systems/databases for code cases. Progress in the 3rd quarter 2019 with Accela’s new project manager furthered the integration (e.g., a firm timeline and allocation of well-defined tasks and requirements for all parties). February 2020 began integration in the Accela ‘test’ environment, with a demonstration on both systems on 03/03/20. City staff are satisfied with the specifications and behavior. The integration will allow community members to continue to submit real-time issues or ‘service requests’ via 311 CRM while eliminating the duplication of records between the two systems. Improvements included new workflows with more specificity on the code issue, and new drop-downs with new selections. The Accela merger enabled the info pushed to Building Eye to provide detail allowing public understanding of the issue, the status, and when each case is resolved. Staff is still working on the capability to modify fields after initial data entry, and specific naming conventions for attachments. Preparations for launching into ‘production’ are underway. The City expects to complete and ‘launch’ the integrated system by April of 2020.</td>
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| Code Enforcement Audit | 11/06/18 | Finding 3: The City actively engages with individuals responsible for code violations to gain compliance but should improve its public communication on code requirements and enforcement efforts | 3.1 Provide general, citywide information on code enforcement in a central location on the City’s website and assign responsibility for ensuring that the information is kept up to date. Examples of information that the website should include are:  
   a) The City's code enforcement strategy and priorities (see Recommendation 1.1).  
   b) Enforcement process, administrative procedures, and penalties (see Recommendations 1.2.a and 1.2.b).  
   c) A list of common code enforcement issue types with a brief description of code requirements, how to report a violation, and contact information for the responsible City function and/or link to additional information on the function’s website (see Recommendation 1.2.c).  
   d) How to track code enforcement case status and resolution, including links to BuildingEye, the City of Palo Alto Citizen Portal, or PaloAlto311.  
   e) General information on how a complaint is managed, including what level of communications and information the complainant can expect and examples of information that the complainant is not entitled to receive, if any.  
   f) City programs, community partners, and other neighborhood resources available to provide assistance. | CMO | Concurrence: Agree  
Target Date: 3 months following implementation of Recommendation 2.2  
Action Plan: The CMO will coordinate the work of responsible departments to implement code enforcement strategies and priorities. | On-Hold | This workplan has been placed on hold and therefore delayed as a result of the onset of the COVID-19 pandemic.  
Recommendation remains on hold pending predecessor actions.  
March 2020  
The City website features a page for “Common Code Concerns & Contacts.” It clarifies which issues fall under the purview of Planning, Public Works, Police, or outside agencies with phone numbers and links to their respective webpages for more information. It also links to the PaloAlto311 information. It was most recently updated February 6, 2020.  
As the casework intake and tracking system is improved through the implementation of the workplan related to other recommendations in this report, the website will be updated accordingly. This workplan is also being integrated with the City’s new website redesign. |
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| Code Enforcement Audit | 11/06/18 | Finding 3: The City actively engages with individuals responsible for code violations to gain compliance but should improve its public communication on code requirements and enforcement efforts | 3.2. Assign staff to be responsible for citywide administration of PaloAlto311 to provide ongoing maintenance and support in coordination with code enforcement functions across the City, including:  
a) Redefining PaloAlto311 issue types and reconfiguring workflows to provide clearer options for complainants who are reporting issues and to minimize incorrect routing of service requests.  
b) Managing user access and making training materials available for new users.  
c) Updating and maintaining the PaloAlto311 data and dashboard on the City’s Open Data Portal. | CMO | Concurrence: Agree  
Target Date: Concurrent with recommendation 2.2 (12-24 months following City Council’s acceptance of Recommendation 1.1)  
Corrective Action Plan: The CMO will coordinate the work of responsible departments on administration of citywide code enforcement efforts. | On-Hold | This workplan has been placed on pause and therefore delayed as a result of the onset of the COVID-19 pandemic.  
Recommendation remains deferred pending predecessor actions.  
March 2020 Revised workplan targets November 2020 - November 2022 for implementation milestones. |
| Audit of Nonprofit Service Agreements | 08/29/19 | The Office of Human Services effectively monitors contractor performance using an established process and tools, which can help other City departments better administer their nonprofit service agreements. | Work with the Administrative Services Department’s Purchasing Division, the City Attorney’s Office, and the Community Services Department’s Office of Human Services to create a citywide template for nonprofit service agreements, and make it available to all City departments. The template should ensure that the City’s payments are tied to contractor performance by:  
a) Specifying program goals, measurable objectives, and performance targets are specified in the scope of services.  
b) Requiring specific deliverables (e.g., semianual report, financial statements) are submitted along with each invoice, rather than requiring “a detailed statement” in broad terms that could be subject to interpretation.  
c) Requiring all deliverables be provided prior to the final payment. | ASD/CAO/CSD/CMO | Concurrence: Agree  
Target Date: December 2020  
June 2020 – December 2020: Develop template(s) and any other necessary implementation materials or guidelines. | Closed | Current practice of staff is to evaluate new partnerships arise, staff have been working to ensure coordination and clear agreements while balancing the unique relationships each partner may have. When appropriate, as identified in this audit for like programs such as the award of Human Services Resource Allocation Process (HSRAP), staff does use similar agreements. In the absence of a template, staff routinely coordinate internally by impacted parties and review prior agreements for like terms and consistency. |
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| Audit of Nonprofit Service Agreements | 08/29/19    | The Office of Human Services effectively monitors contractor performance using an established process and tools, which can help other City departments better administer their nonprofit service agreements. | 2. Renew the 2004 agreement with PADBPA to:  
   a) Require that a preliminary BID budget be submitted in accordance with the City's budget schedule to ensure that the City operating budget is aligned with the PADBPA's budget.  
   b) Require that PADBPA include in its annual report previous two years' budgeted and actual revenues and expenses in a format similar to the City's operating budgets for better projection of the following fiscal year budget.  
   c) Require that collection status, including delinquencies and any subsequent collections by PADBPA, be included in the annual report.  
   d) Reflect the outsourcing of the assessment invoicing and collection and elimination of the Economic Development Manager position. | CMO/CAO/ASD | Concurrence: Agree  
   Target Date: June 2020  
   Action Plan:  
   Sept – Dec 2019: Partner with PADBPA to identify shared understanding of agreement requirements.  
   Jan – June 2020: Partner with CAO and PADBPA to propose revised agreement language and renewal of the agreement to City Council. | On Hold | As a result of the onset of the COVID-19 pandemic, and the City Council's action to place any assessment of the Downtown Business Improvement District (BID) on hold, operations of the Downtown BID, including relationships with PADBPA have been placed on hold. The City Council has waived the BID assessment fee through FY 2022. Staff anticipate that in planning for FY 2023 over the coming fiscal year, that staff will work with PADBPA or its successor to incorporate the recommendations into the ongoing partnership.  
   The assessment invoicing and collection associated with the BID is now the responsibility of MuniServices to coincide with the BRC invoicing and system for ease of the businesses.  
   Expected Completion Date: FY 2023 Q1 |
| Audit of Nonprofit Service Agreements | 08/29/19    | The Office of Human Services effectively monitors contractor performance using an established process and tools, which can help other City departments better administer their nonprofit service agreements. | 3. Establish a procedure or desk manual to clarify roles and responsibilities for monitoring the BID Fund records in SAP, PADBPA's financial records, and MuniServices' assessment collection data to ensure that accurate and complete financial data are provided to the City Council for informed budget and funding decisions. | CMO | Concurrence: Agree  
   Target Date: March 2020  
   Action Plan: Incorporate into workplan for item 2. | On Hold | As a result of the onset of the COVID-19 pandemic, and the City Council's action to place any assessment of the Downtown Business Improvement District (BID) on hold, operations of the Downtown BID, including relationships with PADBPA have been placed on hold. The City Council has waived the BID assessment fee through FY 2022. Staff anticipate that in planning for FY 2023 over the coming fiscal year, that staff will work with PADBPA or its successor to incorporate the recommendations into the ongoing partnership.  
   Internally, the Administrative Services Department has assumed responsibility of the financial responsibilities of the BID Fund with the transfer of the BRC from DSD to ASD as well. The management of the PADBPA contract remains with the CMO. The assessment invoicing and collection associated with the BID is now the responsibility... |
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<td>Audit of Nonprofit Service Agreements</td>
<td>08/29/19</td>
<td>The Office of Human Services effectively monitors contractor performance using an established process and tools, which can help other City departments better administer their nonprofit service agreements.</td>
<td>4. Establish an overall monitoring method to ensure that nonprofit organizations with multiple agreements with the City are reviewed by all responsible departments to avoid redundancy while clarifying the goals, objectives, and performance measures to be tracked under each agreement.</td>
<td>ASD</td>
<td>Concurrence: Agree Target Date: June 2020 Action Plan: Identity required resources including staff support to complete this function, develop a proposal for implementation to be considered as part of the annual budget process.</td>
<td>Closed</td>
<td>Baker Tilly is currently in process of a non-profit agreement audit. During that effort Baker Tilly will follow-up on outstanding audit recommendations and account for them in their current audit activity.</td>
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Meeting Date: 11/15/2021

Title: Approval of Amendment Number 2 to Contract Number C19170648 With Salas O'Brien Engineers, Inc., for Professional Design Services for the 12kV Electrical Distribution Network Rehabilitation Project at the Regional Water Quality Control Plant under the Plant Repair, Retrofit, and Equipment Replacement capital project (WQ-19002) to add Services, Increase Compensation by $149,586 for a New Not-to-Exceed Amount of $560,397, and Extend the Schedule for Performance Through February 29, 2024

From: City Manager

Lead Department: Public Works

Recommendation
Staff recommends that Council approve and authorize the City Manager or their designee to execute Contract Amendment No. 2 to Contract No. C19170648 with Salas O’Brien Engineers, Inc., to increase the contract compensation by a not-to-exceed amount of $149,586 to provide additional electrical engineering services for the 12,470-Volt Electrical Distribution Network Rehabilitation under the Plant Repair, Retrofit, and Equipment Replacement Project (WQ-19002) at the Regional Water Quality Control Plant (RWQCP), and to extend the schedule of performance through February 29, 2024. The revised total contract amount is not-to-exceed $560,397, including $540,120 for basic services and $20,277 for additional services.

Background
The 12,470-Volt (12kV) Electrical Distribution Network (Loop) is critical infrastructure for the RWQCP. The Loop is a backbone for the RWQCP’s medium voltage power distribution infrastructure, using circuit breakers, switches, cabling, conduits, vaults, and transformers to distribute electrical power to wastewater treatment unit processes (e.g., primary, secondary, tertiary, disinfection, and solids handling unit processes). Unit processes are critical to the treatment of wastewater for compliance with federal and state regulations. A reliable power supply to these unit processes is critical to avoid system disruptions.

The 12kV Loop Rehabilitation Project design scope includes replacement of equipment at or beyond its design life and upgrades to accommodate future RWQCP capital projects. A formal Request for Proposals for C19170648 was prepared with the best available information at the time of solicitation for proposals. The design contract was awarded to Salas O’Brien Engineers,
Inc. (Salas O’Brien) in October 2018 (Staff Report 9274). In March 2019, the City adopted the Seal Level Rise Policy (Staff Report 9576); the Salas O’Brien contract was subsequently amended in May 2020 (Staff Report 10969) to include the recommendations of the City’s Sea Level Rise Policy in the design scope.

**Discussion**

Additional design work is required to integrate this project with the Secondary Treatment Upgrade (STU) capital project (WQ-19001), currently in the final design stage, and the Primary Sedimentation Tanks Rehabilitation and Equipment Room Electrical Upgrade (PST) capital project (WQ-14003), which is in early construction. All three projects include medium voltage equipment that must be carefully located and sized for proper capacity, as well as sequenced closely to allow for existing wastewater treatment operations to continue, for temporary operations to be powered during construction, and for future operational power to be provided. Coordination of the complex sequence of power distribution between the three projects will ensure the RWQCP meets its full treatment capacity and requirements for standby power and resiliency. Technical coordination by Salas O’Brien with STU and PST designers has impacted the design of the 12kV Loop Rehabilitation project. Items below summarize the additional work needed to complete the design.

1. **Creation of a 3D Revit Model (Virtual Modelling to visualize the future arrangement of the equipment and room in three dimensions)**
   a. There are two major capital improvement projects (STU and PST) adjacent and connected to the 12kV Loop Rehabilitation project. A 3D model became necessary to illustrate the conduit routing to detect and identify any conflict or clash with existing and future routing inter-project equipment coordination, and the avoidance of newly proposed facilities, undefined at the project’s initial scoping.
   b. The area where new Load Centers No. 3 and No. 4 are to be constructed will undergo several transformations over the next several years, which were not defined at the time of the 12kV Loop Rehabilitation project design scoping. These transformations can only be accurately depicted using a model that can capture the temporary and permanent changes of each contract. Key information that is proposed to be changed by other capital improvement projects (CIPs) and is still in design development include clearances for operations and maintenance access, code required offsets from equipment, and the location of common facilities. The model is needed to create multiple elevations, sections, and perspective views of Load Center No. 3, No. 4, and the Utilities Department Power Metering Cabinets, both to provide details to the other major CIP designers and contractors and for the future 12kV Loop Rehabilitation project contractor.
   c. Plans from the RWQCP’s original construction, previous CIPs, and CIPs currently being designed can all be consolidated into the 3D model. With the 3D model’s clash detection, conflicts between conduits, new footings, existing footings,
walls, and equipment can be more easily identified and avoided, ultimately reducing redesign and change order costs.

d. To create the model, Salas O’Brien needs to incorporate updates from the STU project as the STU design progresses.

2. Coordination Effort with Other On-Going Projects
   a. Reviews of STU and PST project drawings for compatibility with the 12kV Loop Rehabilitation Project are required. To date, four coordination reviews have been completed, including associated coordination meetings specific to electrical work at the RWQCP.
   b. Modifications have been and will continue to be needed for the 12kV Loop Rehabilitation project equipment to accommodate the STU’s temporary and permanent power needs. Examples include (1) the decision to use temporary aeration basin air blower skids during STU construction after the 12kV Loop Rehabilitation project 65% design milestone submittal and (2) the decision to add the removal and replacement of a medium voltage power vault to the 12kV Loop Rehabilitation project when the existing power vault’s position conflicted with the STU’s standby power diesel generator design.
   c. Revisions to design drawings were required when the STU project developed construction and operation clearances, related to the City’s Sea Level Rise Policy, for the air blower room’s flood control louvers. Redesign efforts include relocation of stairways into the planned platform for Load Centers No. 3 and No. 4, reducing the size of the platform, and shifting the equipment and its infrastructure to provide clearances as requested by STU project designers. The redesign effort impacted structural, civil, and electrical engineering components of the platform.

3. Additional Project Interim Deliverables
   In addition to the mutually beneficial electrical coordination meetings, interim deliverables from the 12kV Loop Rehabilitation project were provided to the City and other consultants that aligned with STU project milestones to facilitate a complete STU project review. Three sets of interim deliverables were required.

4. Additional Project Management and Administrative Services Due to Scheduling Delays
   The original engineering design was envisioned to be completed by September 2019. There have been various pauses in the project in addition to the added duration needed to accommodate the increased scope of work. To account for the additional scope outlined in Item No. 1 through 3 above, the anticipated completion of design is now February 2022. Project Management and Administration services need to be adjusted accordingly for the additional time associated with the increased scope of work.

Timeline
The intermediate design (65%) of the electrical distribution loop was completed in March 2021. The detailed design will continue upon Council’s approval of this amendment. The detailed design is expected to be completed within four months of Council approval. As part of the basic services, Salas O’Brien will provide engineering services during solicitation and the first phase of construction of this capital project. Subsequent phases of construction will be performed at a time and sequence to avoid conflicts with other capital projects at the RWQCP. The contract term extension to February 29, 2024 is requested to accommodate subsequent phases of the project through the end of project construction.

Resource Impact
Funding required for this contract amendment is available in the Fiscal Year 2022 Wastewater Treatment Fund Capital Improvement Program Plant Repair, Retrofit, and Equipment Replacement Project (WQ-19002). Palo Alto treats the combined wastewater from Palo Alto, Los Altos, Los Altos Hills, Mountain View, Stanford University, and East Palo Alto Sanitary District. Palo Alto’s share of this project is approximately 36% and the other five agencies’ share is approximately 64%, based on volume and strength of wastewater contribution of each partner. The $149,586 amount of the contract amendment is the combined cost for all the partners.

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

Stakeholder Engagement
This project is part of the RWQCP’s minor capital improvement program funded by Palo Alto and its five additional partner agencies. The five partner agencies are regularly updated about both the need for and the progress on wastewater treatment capital work. Updates are provided each year at an annual meeting and at other periodic meetings established to inform partner agency staff about the minor capital improvement program. This project has been part of that process.

Additionally, RWQCP staff has routinely sought feedback from Palo Alto Utilities Electric Engineering (UTL-E) staff and the design of the project is concurrently reviewed by UTL-E.

Environmental Review
The project is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, subsections (b) and (e)(1), Existing Facilities, as it involves the repair and maintenance of an existing publicly owned utility used to provide sewerage treatment services with a minor addition to an existing building and no or negligible expansion of use.
Meeting Date: 11/15/2021

Title: Approval of Contract Amendment Number 1 to the Following Six Contracts: Contract Number C21177994A with 4LEAF, Inc., C21177994B with SAFEbuilt, C21177994C with Bureau Veritas, C21177994D with Independent Code Consultants, Inc., C21177994E with Shums Coda Associates and C21177994F with TRB+Associates, to Increase the Total Contract Sum Across all Six Contracts by $350,000 (Due to Usage for Public Safety Building Inspector of Record Services) for a New Six-Contract Pool Total Not-to-Exceed Amount of $6,350,000

From: City Manager

Lead Department: Public Works

Recommendation
Staff recommends that the City Council approve and authorize the City Manager or their designee to execute Amendment No. 1 to each of the following six contracts in the total amount across all contracts of $350,000, to increase the total contract capacity from $6,000,000 to $6,350,000 over a four-and-one-half-year term, due to usage needs for Inspector of Record Services utilized by the Public Safety Building, Capital Improvement Project (PE-15001).

a. C21177994A Amendment 1 with 4LEAF, Inc.
b. C21177994B Amendment 1 with SAFEbuilt
c. C21177994C Amendment 1 with Bureau Veritas
d. C21177994D Amendment 1 with Independent Code Consultants, Inc.
e. C21177994E Amendment 1 with Shums Coda Associates
f. C21177994F Amendment 1 with TRB+Associates

Background/ Discussion
The New Public Safety Building (PSB) (PE-15001) was among nine key projects included in the 2014 Council Infrastructure Plan. The PSB was identified as the plan’s highest priority project. In February 2021, Council approved the construction contract for the PSB (CMR #11752) and construction began in March 2021.

In March 2021, in lieu of performing an independent Request for Proposal (RFP) for inspection services for the construction of the PSB, Public Works staff utilized the existing pool of on-call Inspector of Record services from the following six existing Planning and Development Services (PDS) on-call inspection providers selected via prior RFP conducted by PDS and approved in CMR #11255:

• C21177994A with 4LEAF, Inc.
• C21177994B with SAFEbuilt
• C21177994C with Bureau Veritas
• C21177994D with Independent Code Consultants, Inc.
• C21177994E with Shums Coda Associates
• C21177994F with TRB+Associates

Of the six qualified firms in the pool, staff received one proposal from 4LEAF, Inc. Staff in the PDS Department participated in the review of the proposal. On March 22, 2021, a task order was issued to 4LEAF, Inc., under contract C21177994A in the amount of $299,160. An additional $50,840 for contingency is included in this amendment for a total increase in the not to exceed amount of $350,000.

The approved capacity for the six contracts over four-and-a-half years currently shares a combined not to exceed amount of $6,000,000. A single not to exceed compensation pool was approved in CMR #11255 to allow staff to draw on the contract best suited to meet the City’s needs without further amendment of the contracts to shift capacity. With usage of the existing multi-provider contract authority for Inspector of Record services by the Public Works department at the PSB, the recommended action increases the overall capacity for the six contracts to $6,350,000 to ensure that the PDS department retains sufficient contract capacity to meet other inspection needs.

**Timeline**
The inspector of record services for the PSB are in progress and scheduled to be concluded in Summer 2023 when the PSB construction is complete.

**Resource Impact**
Funding for the recommendation in this report is available in the Fiscal Year 2022 New Public Safety Building Capital Improvement Program project (PE-15001). Use of on-call consultants for Planning and Development Services varies annually and is contingent on the availability of funding in the annually approved PDS operating budget. No work is assigned to these consultants unless there is sufficient appropriated funding to cover the costs.

**Stakeholder Engagement**
Public Works has been and is engaging designated staff from key departments that will be occupying the PSB upon completion. The project website is regularly updated with current information and email newsletters are sent to persons who sign up to the mailing list via the website.

**Environmental Review**
Approval of an amendment to these contracts is not a project under the California Environmental Quality Act (CEQA) and therefore no environmental review is required. An Environmental Impact Report for the PSB was prepared and was certified by Council on June 11, 2018 (CMR# 8967), by adoption of Resolution No. 9772.
Title: Approve Amendment No. 1 to Contract C17165347 with TetraTech to Extend the Term from November 30, 2021 to November 30, 2023

From: City Manager

Lead Department: Office of Emergency Services

Recommendation
Staff recommends that the Council authorize the City Manager or their designee to approve the attached amendment to Contract C17165347 with TetraTech for an extension of the term of this contract from November 30, 2021 to November 30, 2023.

Background
On December 5, 2016 the City Council authorized the City Manager to execute a contract for Tetra Tech to perform work across a wide range of emergency planning functions in support of the City’s Office of Emergency Services (OES). (https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/reports/city-manager-reports-cmrs/year-archive/2016/id-7400.pdf) OES has relied on this contract to extend our planning capability using the deep bench of Tetra Tech subject matter experts for planning functions related to earthquakes, debris management, recovery operations, and access and functional needs.

Discussion
During the past 18 months, as a result of the COVID incidence, we greatly reduced the amount of planning support we originally envisioned when we executed this contract. During this same time we also had staff shortages which increased the workload on the 2 remaining FTE in the organization. OES views this contract as an important tool given our current staff limitations, and for the projected workload over the next two years. In CY2022, OES will be participating in the Santa Clara County process to update our Local Hazard Mitigation Plan (LHMP) which occurs on a 5-year cycle. As this occurs, OES will integrate our Threats and Hazards Identification and Risk Assessment (THIRA) with the LHMP, creating an All-Hazards Mitigation Plan – something that has been on our worklist for two years. TetraTech is uniquely situated to support this effort, given they were the vendor Santa Clara County used during the previous LHMP effort in 2017, and it is likely the county will choose them once again for the 2022 effort.
Timeline, Resource Impact, Policy Implications. This amendment does not increase the net value of the agreement; it will extend the contract term from November 30, 2021 to November 30, 2023.

Stakeholder Engagement. None required for this action.

Environmental Review.
The recommendation in this report does not constitute a project requiring review under the California Environmental Quality Act (CEQA).

Attachments:
- Attachment8.a: AMENDMENT 1_C17165347 Tetra Tech EM Inc.vs RH (TS 10-27)
AMENDMENT NO. 1 TO CONTRACT NO. C17165347  
BETWEEN THE CITY OF PALO ALTO AND  
TETRATECH, INC  

This Amendment No.1 (this “Amendment”) to Contract No. C17165347 (the “Contract” as defined below) is entered into as of 15 November 2021, by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and TETRA TECH INC., a Delaware corporation, located at 1999 Harrison Street, Suite 500, Oakland, CA 94612. CITY and (“CONSULTANT”) are referred to collectively as the “Parties” in this Amendment.  

RE 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 a wide range of emergency planning functions and on-going emergency planning support as detailed therein.  

B. The Parties now wish to amend the Contract in order to extend the term by two years thru November 30, 2023 to continue services.  

C. The Parties also intend that the schedule of rates for Year 5 (as found in Exhibit C-1 of the Contract) continue unchanged through the end of the amended term.  

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 November 30, 2023 unless terminated earlier pursuant to Section 19 of this Agreement”.  

SECTION 3. Exhibit C-1 “SCHEDULE OF RATES” of the Contract is hereby amended so that the column entitled “Year Five” now reads as “Years Five, Six, and Seven”.  

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.  

Vers.: Aug. 5, 2019
**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

[TETRA TECH INC]

Officer 1

By: Ed Sussenguth
Name: Ed Sussenguth
Title: Northwest Operations Manager

Officer 2

By: Maricar Cabrera
Name: Maricar Cabrera
Title: Financial Manager
Certificate Of Completion

Envelop Id: 356B4B59C06E46F6AEBF163DB04D6FC4
Status: Completed
Subject: Please DocuSign: AMENDMENT 1_C17165347 Tetra Tech EM Inc.vs RH (TS 10-27) - Copy.pdf

Source Envelope:
Document Pages: 3  Signatures: 2  Envelope Originator:
Certificate Pages: 2  Initials: 0  Renee Howard
AutoNav: Enabled
Enveloped Stamping: Enabled
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

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renee.howard@cityofpaloalto.org
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Security Appliance Status: Connected
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Storage Appliance Status: Connected
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Meeting Date: 11/15/2021

Title: Approval of Construction Contract Number C22182345 with Wickman Development and Construction in the Amount of $284,000, and Authorization for the City Manager to Negotiate and Execute Change Orders Up to a Not-to-Exceed Amount of $28,400 for the Civic Center Waterproofing Study and Repairs Project, Capital Improvement Program Project PE-15020

From: City Manager

Lead Department: Public Works

Recommendation
Staff recommends that Council:
1. Approve and authorize the City Manager or their designee to execute a construction contract with Wickman Development and Construction (Contract No. C22182345), in the amount not to exceed $284,000 for the Civic Center Waterproofing Study and Repairs Capital Improvement Program project PE-15020; and
2. Authorize the City Manager or their designee to negotiate and execute one or more change orders to the contract with Wickman Development and Construction for related, additional but unforeseen work that may develop during the project, the total value of which shall not exceed $28,400.

Background
The Palo Alto Civic Center consists of two office buildings that share a common plaza deck above a three-level, below grade parking garage. The existing horizontal expansion joint, which consists of metal side flanges with a membrane bellows that spans the joint, has started leaking. This expansion joint requires remediation as detailed in the proposal from City consultant RDH Building Sciences Inc. This will include demolition of the concrete surrounding the existing membrane on the plaza deck, removal and then replacement of the membrane, followed by remediation of the surrounding concrete. The waterproofing membranes and drainpipes of the planter boxes around the plaza deck are also at the end of their lives, causing water to leak to lower levels. Additional design work is needed to assess the existing conditions of the planters and provide recommendation for methods of repair. Staff will return to Council for approval of these consultant services in the future.

Discussion
Project Description
Staff recommends approval of this Civic Center waterproofing construction contract to repair and remediate the waterproofing system at King Plaza. This project will complete necessary maintenance work that is in alignment with the recent Adopted Fiscal Year 2022 Capital Improvement Program budget strategy. The $284,000 expenditure for this contract will be used to repair the entirety of the main plaza waterproofing. The scope of work includes the removal and replacement of approximately 110 linear feet of failed waterproofing membrane and the demolition/replacement of 350 square feet of concrete from the decking at King Plaza that is necessary for the repair work.

**Bid Process**
On August 30, 2021, an invitation for bids (IFB) for the Civic Center Water Proofing Study and Repairs Project was posted on PlanetBids and sent to builder’s exchanges and contractors through the City’s eProcurement system. The bidding period was 23 calendar days. Bids were received from three contractors on September 22, 2021 as listed on the attached Bid Summary (Attachment A).

**Summary of Bid Process**

<table>
<thead>
<tr>
<th>Bid Name/Number</th>
<th>Civic Center Water Proofing Study and Repairs Project IFB #182345</th>
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<tbody>
<tr>
<td>Proposed Length of Project</td>
<td>60 calendar days</td>
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<tr>
<td>Number of Bid Packages Downloaded by Builder’s Exchanges</td>
<td>3</td>
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<tr>
<td>Number of Bid Packages Downloaded by Contractors</td>
<td>14</td>
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<tr>
<td>Total Days to Respond to Bid</td>
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<td>Pre-Bid Meeting?</td>
<td>Yes</td>
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<tr>
<td>Number of Bids Received:</td>
<td>3</td>
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<tr>
<td>Bid Price Range</td>
<td>$284,000 - $545,000</td>
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Staff has reviewed the bids submitted and recommends the bid of $284,000 submitted by Wickman Development and Construction be accepted, and Wickman Development and Construction be declared the lowest responsible bidder. The low bid is five percent lower than the engineer’s estimate of $300,000.

Staff reviewed information and similar projects performed by the lowest bidder, Wickman Development and Construction, and did not find any significant complaints with their previous...
work. Staff also checked with the Contractor's State License Board and confirmed the contractor has an active license on file.

This contract is on the City’s construction 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.

Resource Impact
Funding for this contract was appropriated as part of the Fiscal Year 2022 Capital Budget in the Civic Center Waterproofing Study and Repairs Capital Improvement Program project (PE-15020).

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

Stakeholder Engagement
The Civic Center Waterproofing Study and Repairs project has been coordinated with the Public Works Facilities workgroup and construction work will be coordinated with Civic Center user groups as necessary.

Environmental Review
The Civic Center Waterproofing Study and Repairs Project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301c of the CEQA Guidelines as repair, maintenance and/or minor alteration of the existing facilities, and no further environmental review is necessary.

Attachments:
- Attachment9.a: Attachment A: Bid Summary
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<tr>
<th>BID ITEM</th>
<th>DESCRIPTION</th>
<th>APPROX QTY</th>
<th>UNIT</th>
<th>ENGINEER'S ESTIMATE</th>
<th>Wickman Dev. And Con.</th>
<th>Best Contracting Serv.</th>
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<td><strong>Base Bid Total (Items 001 through 002)</strong></td>
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<td><strong>BASE BID OVER/UNDER</strong></td>
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<td>-5%</td>
<td>82%</td>
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Title: Approval of an Exemption from Competitive Solicitation by Council Action per PAMC 2.30.330, and Approval of a Contract with Lew Edwards Group for one year and a not-to-exceed amount of $101,695, for Community Engagement and Ballot Measure Strategy and Preparation Services Relating to Potential Revenue-Generating November 2022 Ballot Measure

From: City Manager

Lead Department: Administrative Services

RECOMMENDATION
Staff recommends that Council:

1. Approve an exemption from competitive solicitation requirements by Council action, per Palo Alto Municipal Code (PAMC) 2.30.330, for a professional services contract with Lew Edwards Group (as detailed below) in order to move forward with stakeholder outreach efforts within the timeline outlined in the Ballot Measure Workplan for consideration of a ballot measure, and

2. Authorize the City Manager or their designee to execute a professional services contract with Lew Edwards Group, to provide community engagement and ballot measure strategy and preparation services related to the potential revenue generating November 2022 ballot measure for a one-year term ending August 15, 2022 in the amount of $92,450 with an additional $9,245 for possible Additional Services (approved by City via task order as detailed in the agreement) for a total not to exceed $101,695.

EXECUTIVE SUMMARY
The Ballot Measure Workplan, adopted by the City Council on August 16, 2021 (CMR 12299) contains three major components: analysis, polling, and outreach. Staff’s recommendation in this report addresses the outreach component of the Ballot Measure Workplan by recommending that the City Council exempt from competitive solicitation requirements and award a professional services contract to Lew Edwards Group for community engagement and ballot measure strategy work for the potential revenue generating November 2022 ballot measure.

BACKGROUND
In 2019, several actions and plans were specifically outlined in the Fiscal Sustainability Workplan (CMR 10267). The goal of the Workplan was to continue to make proactive progress towards fiscal sustainability to maintain the quality of life that the City of Palo Alto supports through its services. Due to the pandemic, in March of 2020, efforts were halted on the exploration of a revenue generating ballot measure. Resumption of this review was outlined in the Community and Economic Recovery Workplan and Council Priorities of 2021 and on June 15, 2021, the Finance Committee (CMR 12299) recommended that the City Council approve the Ballot Measure Workplan, refined estimates, and evaluation of a stakeholder outreach plan and polling. On August 16, 2021, the City Council (CMR 12381) discussed and approved the workplan for a potential revenue generating November 2022 ballot measure that was recommended by the Finance Committee and staff. The ballot measure workplan includes general guidelines and a proposed framework on how to proceed with polling and community outreach efforts. The City has retained Fairbank, Maslin, Maulin & Associates (FM3) to conduct public opinion research on the potential ballot measure(s); the contract with FM3 was executed in October 2021 as the contract is within staff’s approval authority per the Palo Alto Municipal Code.

Through staff’s interactive process with the Finance Committee and the City Council, ballot measure options, structure, and framework have been refined and the draft outline of initial polling efforts are scheduled to be discussed with the City Council on November 8, 2021 (CMR 13687). This staff report recommends that the City Council approve the contract with Lew Edwards Group to begin community engagement work and ballot measure strategy work for the potential November 2022 revenue generating ballot measure.

DISCUSSION
Public opinion research, ballot measure strategic planning, and stakeholder engagement are integral components of a Ballot Measure Workplan, particularly the City’s Workplan which is designed with a goal of establishing an iterative approach with multiple touchpoints throughout the development and refinement of a potential ballot measure. Stakeholders include, but are not limited to, the business community as well as the community at-large. Both opinion research and stakeholder outreach efforts are recommended to be facilitated by consultants who are familiar with the community, economic, and political landscape of the City.

Solicitation Process
Staff reached out to several public outreach firms, and in this research, found that many of these firms had firm-wide conflicts driven by engagements in process. The proposed professional services agreement with Lew Edwards Group was negotiated without engaging in the competitive solicitation process, however staff did interview three firms to discuss this potential engagement. After reviewing the firms and their experience, qualifications, and proposed role, staff evaluated current inhouse expertise and bandwidth and recommend a contract with Lew Edwards Group as clearly most beneficial to the City. Though professional services contracts exceeding $85,000 shall be solicited by formal request for proposals in
accordance with PAMC 2.30.400, they may also be exempted from competitive solicitation requirements by Council action under Palo Alto Municipal Code (PAMC) 2.30.330. In order to move forward with stakeholder outreach efforts within the timeline outlined in the workplan for consideration of a ballot measure, staff recommends that Council exempt this contract from competitive solicitation requirements by Council action pursuant to PAMC 2.30.330, and authorize the City Manager or their designee to execute the professional services agreement with Lew Edwards Group (Attachment A).

Lew Edwards Group has previously worked with the City on the 2008 Library Bond Proposition (Measure N) in 2007 and 2008.

**TIMELINE**

The ballot measure workplan includes general guidelines and a proposed framework on how to proceed with polling and community outreach efforts. Staff has engaged with Fairbank, Maslin, Maulin, Metz & Associates (FM3) to design the draft outline for initial polling expected to be conducted in the November/December 2021 timeframe. The draft outline includes questions to determine the support for a business tax and the characteristics of it; the willingness to support a utility tax; and questions that test the ranking of funding priorities, with services, infrastructure, and climate action as focus points.

Below is a recap of the updated Ballot Measure Workplan:

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<th>Table 1: Ballot Measure Workplan Timeline</th>
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<td>November 2021</td>
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<tr>
<td>- Confirm potential revenue-generating proposals, including refined modeling and analysis</td>
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<td>- Direction to complete initial polling and initial stakeholder outreach</td>
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<td>December 2021</td>
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<td>Finance Committee:</td>
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<td>- Consideration of additional refinements and updates</td>
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<td>Council/Committee (TBD):</td>
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<td>- Review results of initial poll, timing to be December-February</td>
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<td>January to April 2022</td>
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<td>Finance and Council:</td>
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<td>- Provide iterative policy decisions and direction based on staff work related to stakeholder outreach, polling, and draft legal documents</td>
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<tr>
<td>- Second refined round of polling to be reviewed by Finance and Council</td>
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<tr>
<td>Decision on revenue-generating ballot measure(s) to pursue</td>
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<td>May to June 2022</td>
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<td>Council:</td>
</tr>
<tr>
<td>- Final Approval of November 2022 Ballot Measures, including ballot measure language</td>
</tr>
<tr>
<td>August 2022</td>
</tr>
<tr>
<td>Language submitted to Santa Clara County Registrar of Voters</td>
</tr>
<tr>
<td>November 2022</td>
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<tr>
<td>Election</td>
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RESOURCES IMPACT
The professional services contract for the Lew Edwards Group related to community/stakeholder engagement and ballot measure strategy has a not-to-exceed amount of $101,695.00. On October 25, 2021, staff brought forward a Budget Appropriation Ordinance (CMR 13439) for consultant costs associated with the potential revenue generating ballot measure(s) and transferred $200,000.00 from the Strategic Investments Reserve to the Administrative Services Department.

STAKEHOLDER ENGAGEMENT
Stakeholder engagement is integrated through constituent polling and stakeholder outreach. Staff, throughout the process and from previous conversations, has solicited input and feedback with the Finance Committee, City Council, residents, and the business community. An integral part of the Ballot Measure Workplan includes polling and stakeholder engagement. This staff report recommends that the City Council authorize staff to engage with The Lew Edwards Group to facilitate these goals.

ENVIRONMENTAL REVIEW
This report is not a project for the purposes of the California Environmental Quality Act (CEQA). Environmental review is not required.
Title: Approval of Two Professional Services Agreements With GDS Associates, Inc. and Raftelis Financial Consultants, Inc. for On-Call, As-Needed Rate Design and Financial Consulting Services for a Total Not-to-Exceed Amount of $1 per Agreement; and Approval to Select One or More Consultants Under Either Agreement for a Not-to-Exceed Amount of $250,000 per Year over the 5 Year Term

From: City Manager

Lead Department: Utilities

Recommendation
Staff recommends that the City Council:

1. Approve and authorize the City Manager or their designee to execute the attached two (2) professional services agreements with GDS Associates, Inc. and Raftelis Financial Consultants, Inc. for on-call, as-needed Task Order-based rate design and financial consulting services for the City’s Electric, Gas, Water and Wastewater Collection Utilities in a not to exceed total amount of $1 per agreement; and
2. Approve and authorize the City Manager or their designee to select one or more consultants under the process described in Exhibit A to the agreements and to increase the not-to-exceed amount under that agreement with the selected consultant to $250,000 per year over the five-year term of each of the agreements (a maximum of $1.25 million); subject to the annual appropriation of funds.

Executive Summary
The Utilities Department’s Resource Management Division (RMD) Rates group periodically requires the expertise of outside consultants to design and review cost of service analysis (COSAs) as well as existing and new rates. In addition, analysis is sometimes needed in the areas of financial planning, load and weather research, as well as policy guidance. In the past, RMD has contracted for these services as needed and usually only in one utility in any given year. However, as the variety of changes seen in the industry as a whole are coming faster and may require multiple utilities to be evaluated at the same time, Staff is proposing procuring a group of “on-call” consultants to secure services on an as-needed basis, for a period of up to five years.
The department intends to award contracts to a small group of companies that can cover all of the utilities which may require work: Electric, Gas, Water and Wastewater Collection. Award of the two contracts will allow the City to use objective criteria to solicit and select the firm with the most appropriate skills and experience for individual assignments that arise in this area over the five-year term of the agreements, and having multiple vendors in place will expand the options available for the City as projects arise. Services will be used on a per-project basis, at the City’s discretion.

**Background**

Utilities has historically utilized contracts with consultants for both specified and on-call services. The department relies on the use of on-call service providers to meet performance objectives and to address fluctuations in workload. Consultants are primarily used for cost of service analysis, rate design work, financial planning and analysis, as well as policy analysis as it relates to designing longer term rate and forecasting strategies.

**Discussion**

The Utilities Department’s rates group updates existing COSA models prior to rate modifications and performs new COSA analysis every five to ten years, in accordance with industry best practices. This helps ensure that rate structures represent the City’s cost of providing service. The department is selecting a pool of pre-approved on-call consultants in order to achieve the desired expertise for the utility throughout the contract term, as outlined in the attached Scope of Work. On-call services will be used on a per-project basis, at the City’s discretion and when sufficient funds are available. For each project, staff will provide each of the 2 consultants a Task Order including a scope of services and a list of tasks needed for the upcoming project. Staff will then conduct a streamlined selection process, described in Exhibit A of the contracts, to evaluate the resulting proposal, schedule and fee received from the consultant to determine whether to select one of the firms for the upcoming work. With this process, staff’s intent is that appropriate assignments can be made quickly, avoiding project delays.

**Bid Process**

The City issued a Request for Proposal through PlanetBids on July 7, 2021 to identify consultants with experience working with municipal utilities to provide expertise in COS analysis, rate design and rates policy analysis. Proposals were due to the City by July 28, 2021. Table 1 summarizes the solicitation process:

**Table 1: Summary of Solicitation Process**
### Results

Staff created an evaluation committee consisting of Utilities Department staff to review the 5 proposals. The committee carefully reviewed each firm’s qualifications and proposal according to the RFP’s criteria, including quality and completeness of the proposal, quality and effectiveness of services, experience with projects of similar scope and complexity, prior record of performance, cost, proposer’s financial condition, and ability to provide future services. Based on the department’s evaluation of proposals, staff selected GDS Associates and Raftelis Financial for the provision of on-call services. Both vendors demonstrated a deep knowledge and understanding of ratemaking fundamentals and utility financial needs and documentation. Staff expects this to result in less time being required to bring the consultants up to speed, therefore expediting future projects.

The RFP stated that more than one consulting firm may be retained to perform the assignments outlined in the scope of work and that award of a contract would not guarantee that the consultant would be awarded any specific area or assignment.

Council approval of the consulting agreements will enable staff to utilize the agreements for various projects and/or assignments, however does not guarantee any work will be carried out with any of the consultants over the term of the agreements. The contracts set each consultant’s rates and the general type of work they may be engaged in upon City request and selection. When staff has a specific project or assignment that requires consulting services, City staff will have the option to either award the project or assignment to one of the two vendors or solicit proposals from amongst the two vendors. Upon selection, an assignment with a scope, timeline, and budget will be established with the selected vendor.

The contract has a 5-year term through December 31, 2026. If fully implemented, the spending limit for both contracts combined will be $1,250,000 between FY 2022 and FY 2026, with an annual cap of $250,000 per year. This amount is not expected to be fully utilized but provides adequate contract contingency in case of the need for significant spending on financial planning, rate redesign and new rate making in any single year.

### Resource Impact
Staff anticipates spending no more than the $250,000/year not-to-exceed amount over the five years ($1.25 million in aggregate) for all projects and assignments and is subject to the annual appropriation of funds. Departments seeking consulting services will fund the assignments through their existing development budgets.

The agreements expressly do not guarantee any work to vendors during the term of the contracts, but sets each consultant’s rates and the general type of work they may engage in upon City request, solicitation and selection. When work is performed under a City Task Order request, staff will ensure that the aggregate total compensation to all consultants does not exceed the aggregate $1.25 million limit over five years. No funds will be encumbered until an individual project or assignment budget has been established. Funds for FY 2022 projects will come from a combination of general consulting dollars already budgeted for rate development, as well as consulting dollars attributable to individual funds (electric, water, etc.) as appropriate.

This contract uses the City’s professional services contract template, which permits the City to terminate without cause/for convenience by providing written notice to the consultant. 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.

Environmental Review
Approval of the attached professional services agreements does not require review under the California Environmental Quality Act (“CEQA”) because the consulting services do not meet the definition of a project under CEQA (Public Resources Code section 21065).

Attachments:
- Attachment11.a: Attachment A: C22181819A GDS Associates Inc.
- Attachment11.b: Attachment B: C22181819B Raftelis
This Agreement for Professional Services (this “Agreement”) is entered into as of the 15th day of November 2021 (the “Effective Date”), by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and GDS ASSOCIATES, INC., a Georgia corporation, located at 1850 Parkway Place, Suite 800, Marietta, CA 30067 (“CONSULTANT”).

The following recitals are a substantive portion of this Agreement and are fully incorporated herein by this reference:

RECITALS

A. CITY intends to contract for Task-Order based rate design and financial consulting to its Electric, Gas, Water and Wastewater Collection Utilities (the “Project”) and desires to engage a consultant to primarily focus on cost of service allocation, rate design, and financial planning and forecasting on an on-call, as-needed, time-limited basis in connection with the Project (the “Services”, as detailed more fully in Exhibit A).

B. CONSULTANT represents that it, its employees and subconsultants, if any, possess the necessary professional expertise, qualifications, and capability, and all required licenses and/or certifications to provide the Services.

C. CITY, in reliance on these representations, desires to engage CONSULTANT to provide the Services as more fully described in Exhibit A, entitled “SCOPE OF SERVICES”.

NOW, THEREFORE, in consideration of the recitals, covenants, terms, and conditions, in this Agreement, the parties agree as follows:

SECTION 1. SCOPE OF SERVICES. CONSULTANT shall perform the Services described in Exhibit A in accordance with the terms and conditions contained in this Agreement on an on-call, as-needed basis. The performance of all Services shall be to the reasonable satisfaction of CITY.

☑ Optional On-Call Provision (This provision only applies if checked and only applies to on-call agreements.)

CITY may elect to, but is not required to, authorize on-call Services up to the maximum
compensation amount set forth in Section 4 (Not to Exceed Compensation). CONSULTANT shall provide on-call Services only by advanced, written authorization from CITY as detailed in this Section. On-call Services, if any, shall be authorized by CITY, as needed, with a Task Order assigned and approved by CITY’s authorized representative, following the “Task Order Proposal and Selection Process” set forth in Exhibit A. Each Task Order shall be in substantially the same form as Exhibit A-1 entitled “PROFESSIONAL SERVICES TASK ORDER”. Each Task Order shall contain a specific scope of services, schedule of performance and maximum compensation amount, in accordance with the provisions of this Agreement. Compensation for on-call Services shall be specified by CITY in the Task Order, based on a negotiated lump sum.

To accept a Task Order, CONSULTANT shall sign the Task Order and return it to CITY’s Project Manager within the time specified by the Project Manager, and upon authorization by CITY (defined as counter-signature by the CITY Project Manager), the fully executed Task Order shall become part of this Agreement. The cumulative total compensation due to CONSULTANT for all Task Orders issued under this Agreement shall not exceed the amount of compensation set forth in Section 4. CONSULTANT shall only be compensated for on-call Services performed under an authorized Task Order and only up to the maximum compensation amount set forth in Section 4. Performance of and payment for any on-call Services are subject to all requirements and restrictions in this Agreement.

SECTION 2. TERM.
The term of this Agreement shall be from the date of its full execution through December 31, 2026 unless terminated earlier pursuant to Section 19 (Termination) of this Agreement.

SECTION 3. SCHEDULE OF PERFORMANCE. Time is of the essence in the performance of Services under this Agreement. CONSULTANT shall complete the Services within the term of this Agreement and in accordance with the schedule set forth in Exhibit B, entitled “SCHEDULE OF PERFORMANCE”. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by CONSULTANT in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the CONSULTANT. CITY’s agreement to extend the term or the schedule for performance shall not preclude recovery of damages for delay if the extension is required due to the fault of CONSULTANT.

SECTION 4. NOT TO EXCEED COMPENSATION. The CITY is engaging multiple consultants, including CONSULTANT, that are eligible to respond with proposals to the CITY’S project-specific Task Orders under the “Task Order Proposal and Selection Process” described in Exhibit A. The compensation to be paid to CONSULTANT for performance of the Services shall be based on the compensation structure detailed in Exhibit C, entitled “COMPENSATION,” including any reimbursable expenses specified therein, and the maximum total compensation shall not exceed **One Dollar ($1)**, unless CITY selects CONSULTANT, according to the “Task Order Proposal and Selection Process” in Exhibit A, to perform Services under a Task Order not to exceed **Two Hundred Twenty-Five Thousand Dollars ($225,000)** per year, for a total not to exceed amount of **One Million One Hundred Twenty-Five Thousand Dollars ($1,125,000)** over the term of the Agreement. No pre-qualified consultant, including the CONSULTANT under this Agreement, is guaranteed selection or assured of any minimum quantity of work to be performed. In the event CONSULTANT is not selected to provide Services under a Task Order, no payment is due from CITY. The hourly schedule of rates, if applicable, is set out in Exhibit C-
1, entitled “SCHEDULE OF RATES.” Any work performed or expenses incurred for which payment would result in a total exceeding the maximum compensation set forth in this Section 4 shall be at no cost to the CITY.

Optional Additional Services Provision (This provision applies only if checked and a not-to-exceed compensation amount for Additional Services is allocated below under this Section 4.)

In addition to the not-to-exceed compensation specified above, CITY has set aside the not-to-exceed compensation amount of Twenty-Five Thousand Dollars ($25,000) per year for a total not to exceed of One Hundred Twenty-Five Thousand Dollars ($125,000) for the performance of Additional Services (as defined below). The total compensation for performance of the Services, Additional Services and any reimbursable expenses specified in Exhibit C, shall not exceed Two Hundred Fifty Thousand ($250,000) per year, for a total not to exceed amount of One Million Two Hundred Fifty-Thousand Dollars ($1,250,000), as detailed in Exhibit C.

“Additional Services” means 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 in a Task Order issued under Exhibit A. CITY may elect to, but is not required to, authorize Additional Services up to the maximum amount of compensation set forth for Additional Services in this Section 4. CONSULTANT shall provide Additional Services only by advanced, written authorization from CITY as detailed in this Section. Additional Services, if any, shall be authorized by CITY with a Task Order assigned and authorized by CITY’s Project Manager, as identified in Section 13 (Project Management). Each Task Order shall be in substantially the same form as Exhibit A-1, entitled “PROFESSIONAL SERVICES TASK ORDER”. Each Task Order shall contain a specific scope of services, schedule of performance and maximum compensation amount, in accordance with the provisions of this Agreement. Compensation for Additional Services shall be specified by CITY in the Task Order, based on a negotiated lump sum.

To accept a Task Order, CONSULTANT shall sign the Task Order and return it to CITY’s Project Manager within the time specified by the Project Manager, and upon authorization by CITY (defined as counter-signature by the CITY Project Manager), the fully executed Task Order shall become part of this Agreement. The cumulative total compensation to CONSULTANT for all Task Orders authorized under this Agreement shall not exceed the amount of compensation set forth for Additional Services in this Section 4. CONSULTANT shall only be compensated for Additional Services performed under an authorized Task Order and only up to the maximum amount of compensation set forth for Additional Services in this Section 4. Performance of and payment for any Additional Services are subject to all requirements and restrictions in this Agreement.

SECTION 5. INVOICES. In order to request payment, CONSULTANT shall submit monthly invoices to the CITY describing the Services performed and the applicable charges (including, if applicable, an identification of personnel who performed the Services, hours worked, hourly rates, and reimbursable expenses), based upon Exhibit C or, as applicable, CONSULTANT’s schedule of rates set forth in Exhibit C-1. If applicable, the invoice shall also describe the percentage of completion of each task. The information in CONSULTANT’s invoices shall be subject to
verification by CITY. CONSULTANT shall send all invoices to CITY’s Project Manager at the address specified in Section 13 (Project Management) below. CITY will generally process and pay invoices within thirty (30) days of receipt of an acceptable invoice.

SECTION 6. QUALIFICATIONS/STANDARD OF CARE. All Services shall be performed by CONSULTANT or under CONSULTANT’s supervision. CONSULTANT represents that it, its employees and subcontractors, if any, possess the professional and technical personnel necessary to perform the Services required by this Agreement and that the personnel have sufficient skill and experience to perform the Services assigned to them. CONSULTANT represents that it, its employees and subcontractors, if any, have and shall maintain during the term of this Agreement all licenses, permits, qualifications, insurance and approvals of whatever nature that are legally required to perform the Services. All Services to be furnished by CONSULTANT under this Agreement shall meet the professional standard and quality that prevail among professionals in the same discipline and of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.

SECTION 7. COMPLIANCE WITH LAWS. CONSULTANT shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement, as amended from time to time. CONSULTANT shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

SECTION 8. ERRORS/OMISSIONS. CONSULTANT is solely responsible for costs, including, but not limited to, increases in the cost of Services, arising from or caused by CONSULTANT’s errors and omissions, including, but not limited to, the costs of corrections such errors and omissions, any change order markup costs, or costs arising from delay caused by the errors and omissions or unreasonable delay in correcting the errors and omissions.

SECTION 9. COST ESTIMATES. If this Agreement pertains to the design of a public works project, CONSULTANT shall submit estimates of probable construction costs at each phase of design submittal. If the total estimated construction cost at any submittal exceeds the CITY’s stated construction budget by ten percent (10%) or more, CONSULTANT shall make recommendations to CITY for aligning the Project design with the budget, incorporate CITY approved recommendations, and revise the design to meet the Project budget, at no additional cost to CITY.

SECTION 10. INDEPENDENT CONTRACTOR. CONSULTANT acknowledges and agrees that CONSULTANT and any agent or employee of CONSULTANT will act as and shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which CONSULTANT performs the Services requested by CITY under this Agreement. CONSULTANT and any agent or employee of CONSULTANT will not have employee status with CITY, nor be entitled to participate in any plans, arrangements, or distributions by CITY pertaining to or in connection with any retirement, health or other benefits that CITY may offer its employees. CONSULTANT will be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, workers’ compensation, unemployment compensation, insurance, and other similar responsibilities related to CONSULTANT’s performance of the Services, or any agent or
employee of CONSULTANT providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between CITY and CONSULTANT or any agent or employee of CONSULTANT. Any terms in this Agreement referring to direction from CITY shall be construed as providing for direction as to policy and the result of CONSULTANT’s provision of the Services only, and not as to the means by which such a result is obtained.

SECTION 11. ASSIGNMENT. The parties agree that the expertise and experience of CONSULTANT are material considerations for this Agreement. CONSULTANT shall not assign or transfer any interest in this Agreement nor the performance of any of CONSULTANT’s obligations hereunder without the prior written approval of the City Manager. Any purported assignment made without the prior written approval of the City Manager will be void and without effect. Subject to the foregoing, the covenants, terms, conditions and provisions of this Agreement will apply to, and will bind, the heirs, successors, executors, administrators and assignees of the parties.

SECTION 12. SUBCONTRACTING.

Option A: No Subcontractor: CONSULTANT shall not subcontract any portion of the Services to be performed under this Agreement without the prior written authorization of the City Manager or designee. In the event CONSULTANT does subcontract any portion of the work to be performed under this Agreement, CONSULTANT shall be fully responsible for all acts and omissions of subcontractors.

Option B: Subcontracts Authorized: Notwithstanding Section 11 (Assignment) above, CITY agrees that subcontractors may be used to complete the Services. The subcontractors authorized by CITY to perform work on this Project are:

CONSULTANT shall be responsible for directing the work of any subcontractors and for any compensation due to subcontractors. CITY assumes no responsibility whatsoever concerning compensation of subcontractors. CONSULTANT shall be fully responsible to CITY for all acts and omissions of subcontractors. CONSULTANT shall change or add subcontractors only with the prior written approval of the City Manager or designee.

SECTION 13. PROJECT MANAGEMENT. CONSULTANT will assign Amber Gschwend as the CONSULTANT’s Project Manager to have supervisory responsibility for the performance, progress, and execution of the Services and represent CONSULTANT during the day-to-day performance of the Services. If circumstances cause the substitution of the CONSULTANT’s Project Manager or any other of CONSULTANT’s key personnel for any reason, the appointment of a substitute Project Manager and the assignment of any key new or replacement personnel will be subject to the prior written approval of the CITY’s Project Manager. CONSULTANT, at CITY’s request, shall promptly remove CONSULTANT personnel who CITY finds do not perform the Services in an acceptable manner, are uncooperative, or present a threat to the adequate or timely completion of the Services or a threat to the safety of persons or property.

CITY’s Project Manager is Eric Keniston, Utilities Department, Resource Management Division, 250 Hamilton Avenue, Palo Alto, CA, 94301, Telephone: 650-329-2386. CITY’s Project Manager will be CONSULTANT’s point of contact with respect to performance, progress and execution of
the Services. CITY may designate an alternate Project Manager from time to time.

SECTION 14. OWNERSHIP OF MATERIALS. All work product, including without limitation, all writings, drawings, studies, sketches, photographs, plans, reports, specifications, computations, models, recordings, data, documents, and other materials and copyright interests developed under this Agreement, in any form or media, shall be and remain the exclusive property of CITY without restriction or limitation upon their use. CONSULTANT agrees that all copyrights which arise from creation of the work product pursuant to this Agreement are vested in CITY, and CONSULTANT hereby waives and relinquishes all claims to copyright or other intellectual property rights in favor of CITY. Neither CONSULTANT nor its subcontractors, if any, shall make any of such work product available to any individual or organization without the prior written approval of the City Manager or designee. CONSULTANT makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the Scope of Services.

SECTION 15. AUDITS. CONSULTANT agrees to permit CITY and its authorized representatives to audit, at any reasonable time during the term of this Agreement and for four (4) years from the date of final payment, CONSULTANT’s records pertaining to matters covered by this Agreement, including without limitation records demonstrating compliance with the requirements of Section 10 (Independent Contractor). CONSULTANT further agrees to maintain and retain accurate books and records in accordance with generally accepted accounting principles for at least four (4) years after the expiration or earlier termination of this Agreement or the completion of any audit hereunder, whichever is later.

SECTION 16. INDEMNITY.

☐[Option A applies to the following design professionals pursuant to Civil Code Section 2782.8: architects; landscape architects; registered professional engineers and licensed professional land surveyors.] 16.1. To the fullest extent permitted by law, CONSULTANT shall indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an “Indemnified Party”) from and against any and all third party demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorney’s fees, experts fees, court costs and disbursements (“Claims”) to the extent that such Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party. CITY will reimburse CONSULTANT for the proportionate percentage of defense costs exceeding CONSULTANT’s proportionate percentage of fault as determined by the final judgment of a court of competent jurisdiction.

☒[Option B applies to any consultant who does not qualify as a design professional as defined in Civil Code Section 2782.8.] 16.1. To the fullest extent permitted by law, CONSULTANT shall indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an “Indemnified Party”) from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorney’s fees, experts fees, court costs and disbursements (“Claims”) resulting from, arising out of or in any manner related to performance or nonperformance by CONSULTANT, its officers, employees, agents or
contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.

16.2. Notwithstanding the above, nothing in this Section 16 shall be construed to require CONSULTANT to indemnify an Indemnified Party from a Claim arising from the active negligence or willful misconduct of an Indemnified Party that is not contributed to by any act of, or by any omission to perform a duty imposed by law or agreement by, CONSULTANT, its officers, employees, agents or contractors under this Agreement.

16.3. The acceptance of CONSULTANT’s Services and duties by CITY shall not operate as a waiver of the right of indemnification. The provisions of this Section 16 shall survive the expiration or early termination of this Agreement.

SECTION 17. WAIVERS. No waiver of a condition or nonperformance of an obligation under this Agreement is effective unless it is in writing in accordance with Section 29.4 of this Agreement. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted shall apply solely to the specific instance expressly stated. No single or partial exercise of any right or remedy will preclude any other or further exercise of any right or remedy.

SECTION 18. INSURANCE.

18.1. CONSULTANT, at its sole cost and expense, shall obtain and maintain, in full force and effect during the term of this Agreement, the insurance coverage described in Exhibit D, entitled “INSURANCE REQUIREMENTS”. CONSULTANT and its contractors, if any, shall obtain a policy endorsement naming CITY as an additional insured under any general liability or automobile policy or policies.

18.2. All insurance coverage required hereunder shall be provided through carriers with AM Best’s Key Rating Guide ratings of A-:VII or higher which are licensed or authorized to transact insurance business in the State of California. Any and all contractors of CONSULTANT retained to perform Services under this Agreement will obtain and maintain, in full force and effect during the term of this Agreement, identical insurance coverage, naming CITY as an additional insured under such policies as required above.

18.3. Certificates evidencing such insurance shall be filed with CITY concurrently with the execution of this Agreement. The certificates will be subject to the approval of CITY’s Risk Manager and will contain an endorsement stating that the insurance is primary coverage and will not be canceled, or materially reduced in coverage or limits, by the insurer except after filing with the Purchasing Manager thirty (30) days’ prior written notice of the cancellation or modification. If the insurer cancels or modifies the insurance and provides less than thirty (30) days’ notice to CONSULTANT, CONSULTANT shall provide the Purchasing Manager written notice of the cancellation or modification within two (2) business days of the CONSULTANT’s receipt of such notice. CONSULTANT shall be responsible for ensuring that current certificates evidencing the insurance are provided to CITY’s Chief Procurement Officer during the entire term of this Agreement.

18.4. The procuring of such required policy or policies of insurance will not be
construed to limit CONSULTANT’s liability hereunder nor to fulfill the indemnification provisions of this Agreement. Notwithstanding the policy or policies of insurance, CONSULTANT will be obligated for the full and total amount of any damage, injury, or loss caused by or directly arising as a result of the Services performed under this Agreement, including such damage, injury, or loss arising after the Agreement is terminated or the term has expired.

SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

19.1. The City Manager may suspend the performance of the Services, in whole or in part, or terminate this Agreement, with or without cause, by giving ten (10) days prior written notice thereof to CONSULTANT. If CONSULTANT fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided under this Agreement or at law, the City Manager may terminate this Agreement sooner upon written notice of termination. Upon receipt of any notice of suspension or termination, CONSULTANT will discontinue its performance of the Services on the effective date in the notice of suspension or termination.

19.2. In event of suspension or termination, CONSULTANT will deliver to the City Manager on or before the effective date in the notice of suspension or termination, any and all work product, as detailed in Section 14 (Ownership of Materials), whether or not completed, prepared by CONSULTANT or its contractors, if any, in the performance of this Agreement. Such work product is the property of CITY, as detailed in Section 14 (Ownership of Materials).

19.3. In event of suspension or termination, CONSULTANT will be paid for the Services rendered and work products delivered to CITY in accordance with the Scope of Services up to the effective date in the notice of suspension or termination; provided, however, if this Agreement is suspended or terminated on account of a default by CONSULTANT, CITY will be obligated to compensate CONSULTANT only for that portion of CONSULTANT’s Services provided in material conformity with this Agreement as such determination is made by the City Manager acting in the reasonable exercise of his/her discretion. The following Sections will survive any expiration or termination of this Agreement: 14, 15, 16, 17, 19.2, 19.3, 19.4, 20, 25, 27, 28, 29 and 30.

19.4. No payment, partial payment, acceptance, or partial acceptance by CITY will operate as a waiver on the part of CITY of any of its rights under this Agreement, unless made in accordance with Section 17 (Waivers).

SECTION 20. NOTICES.

All notices hereunder will be given in writing and mailed, postage prepaid, by certified mail, addressed as follows:

To CITY: Office of the City Clerk
City of Palo Alto
Post Office Box 10250
Palo Alto, CA 94303

With a copy to the Purchasing Manager
To CONSULTANT: Attention of the Project Manager at the address of CONSULTANT recited on the first page of this Agreement.

CONSULTANT shall provide written notice to CITY of any change of address.

SECTION 21. CONFLICT OF INTEREST.

21.1. In executing this Agreement, CONSULTANT 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 the Services.

21.2. CONSULTANT further covenants that, in the performance of this Agreement, it will not employ subcontractors or other persons or parties having such an interest. CONSULTANT certifies that no person who has or will have any financial interest under this Agreement is an officer or employee of CITY; this provision will be interpreted in accordance with the applicable provisions of the Palo Alto Municipal Code and the Government Code of the State of California, as amended from time to time. CONSULTANT agrees to notify CITY if any conflict arises.

21.3. If the CONSULTANT meets the definition of a “Consultant” as defined by the Regulations of the Fair Political Practices Commission, CONSULTANT will file the appropriate financial disclosure documents required by the Palo Alto Municipal Code and the Political Reform Act of 1974, as amended from time to time.

SECTION 22. NONDISCRIMINATION; COMPLIANCE WITH ADA.

22.1. As set forth in Palo Alto Municipal Code Section 2.30.510, as amended from time to time, CONSULTANT certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person due to that person’s race, skin color, gender, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, pregnancy, genetic information or condition, housing status, marital status, familial status, weight or height of such person. CONSULTANT 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.

22.2. CONSULTANT understands and agrees that pursuant to the Americans Disabilities Act (“ADA”), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor or subcontractor, are required to be accessible to the disabled public. CONSULTANT will provide the Services specified in this Agreement in a manner that complies with the ADA and any other applicable federal, state and local disability rights laws and regulations, as amended from time to time. CONSULTANT will not discriminate against persons with disabilities in the provision of services, benefits or activities provided under this Agreement.

SECTION 23. ENVIRONMENTALLY PREFERRED PURCHASING AND ZERO WASTE REQUIREMENTS. CONSULTANT shall comply with the CITY’s Environmentally
Preferred Purchasing policies which are available at CITY’s Purchasing Department, hereby incorporated by reference and as amended from time to time. CONSULTANT 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, CONSULTANT shall comply with the following Zero Waste requirements:

(a) All printed materials provided by CONSULTANT 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.

(b) Goods purchased by CONSULTANT 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 Department’s office.

(c) Reusable/returnable pallets shall be taken back by CONSULTANT, at no additional cost to CITY, for reuse or recycling. CONSULTANT shall provide documentation from the facility accepting the pallets to verify that pallets are not being disposed.

SECTION 24. COMPLIANCE WITH PALO ALTO MINIMUM WAGE ORDINANCE. CONSULTANT shall comply with all requirements of the Palo Alto Municipal Code Chapter 4.62 (Citywide Minimum Wage), as 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, CONSULTANT shall pay such employees no less than the minimum wage set forth in Palo Alto Municipal Code Section 4.62.030 for each hour worked within the geographic boundaries of the City of Palo Alto. In addition, CONSULTANT shall post notices regarding the Palo Alto Minimum Wage Ordinance in accordance with Palo Alto Municipal Code Section 4.62.060.

SECTION 25. 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, as amended from time to time. 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.

SECTION 26. PREVAILING WAGES AND DIR REGISTRATION FOR PUBLIC WORKS CONTRACTS.

26.1. This Project is not subject to prevailing wages and related requirements. CONSULTANT is not required to pay prevailing wages and meet related requirements under the California Labor Code and California Code of Regulations in the performance and implementation of the Project if the contract:

(1) is not a public works contract;

(2) is for a public works construction project of $25,000 or less, per California Labor Code Sections 1782(d)(1), 1725.5(f) and 1773.3(j); or
is for a public works alteration, demolition, repair, or maintenance project of $15,000 or less, per California Labor Code Sections 1782(d)(1), 1725.5(f) and 1773.3(j).

OR

SECTION 26. WAGES.

26.1. This Project is subject to prevailing wages and related requirements as a “public works” under California Labor Code Sections 1720 et seq. and related regulations. CONSULTANT is required to pay general prevailing wages as defined in California Labor Code Section 1773.1 and Subchapter 3, Title 8 of the California Code of Regulations Section 16000 et seq., as amended from time to time. Pursuant to Labor Code Section 1773, the CITY 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 contract for this Project from the State of California Department of Industrial Relations (“DIR”). Copies of these rates may be obtained at the CITY’s Purchasing Department office. The general prevailing wage rates are also available at the DIR, Division of Labor Statistics and Research, web site (see e.g. http://www.dir.ca.gov/DLSR/PWD/index.htm) as amended from time to time. CONSULTANT shall post a copy of the general prevailing wage rates at all Project job sites and shall pay the adopted prevailing wage rates as a minimum. CONSULTANT shall comply with all applicable provisions of Division 2, Part 7, Chapter 1 of the California Labor Code (Labor Code Section 1720 et seq.), including but not limited to Sections 1725.5, 1771, 1771.1, 1771.4, 1773.2, 1774, 1775, 1776, 1777.5, 1782, 1810, 1813 and 1815, and all applicable implementing regulations, including but not limited to Subchapter 3, Title 8 of the California Code of Regulations Section 16000 et seq. (8 CCR Section 16000 et seq.), as amended from time to time. CONSULTANT shall comply with the requirements of Exhibit E, entitled “DIR REGISTRATION FOR PUBLIC WORKS CONTRACTS”, for any contract for public works construction, alteration, demolition, repair or maintenance, including but not limited to the obligations to register with, and furnish certified payroll records directly to, DIR.

SECTION 27. CLAIMS PROCEDURE FOR “9204 PUBLIC WORKS PROJECTS”.

For purposes of this Section 27, 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. (Cal. Pub. Cont. Code § 9204.) Per California Public Contract Code Section 9204, for Public Works Projects, certain claims procedures shall apply, as set forth in Exhibit F, entitled “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 Exhibit F, entitled “Claims for Public Contract Code Section 9204 Public Works Projects”.

OR

This Project is not a 9204 Public Works Project.

SECTION 28. CONFIDENTIAL INFORMATION.

28.1. In the performance of this Agreement, CONSULTANT may have access to CITY’s Confidential Information (defined below). CONSULTANT will hold Confidential...
Information in strict confidence, not disclose it to any third party, and will use it only for the performance of its obligations to CITY under this Agreement and for no other purpose. CONSULTANT will maintain reasonable and appropriate administrative, technical and physical safeguards to ensure the security, confidentiality and integrity of the Confidential Information. Notwithstanding the foregoing, CONSULTANT may disclose Confidential Information to its employees, agents and subcontractors, if any, to the extent they have a need to know in order to perform CONSULTANT’s obligations to CITY under this Agreement and for no other purpose, provided that the CONSULTANT informs them of, and requires them to follow, the confidentiality and security obligations of this Agreement.

28.2. “Confidential Information” means all data, information (including without limitation “Personal Information” about a California resident as defined in Civil Code Section 1798 et seq., as amended from time to time) and materials, in any form or media, tangible or intangible, provided or otherwise made available to CONSULTANT by CITY, directly or indirectly, pursuant to this Agreement. Confidential Information excludes information that CONSULTANT can show by appropriate documentation: (i) was publicly known at the time it was provided or has subsequently become publicly known other than by a breach of this Agreement; (ii) was rightfully in CONSULTANT’s possession free of any obligation of confidence prior to receipt of Confidential Information; (iii) is rightfully obtained by CONSULTANT from a third party without breach of any confidentiality obligation; (iv) is independently developed by employees of CONSULTANT without any use of or access to the Confidential Information; or (v) CONSULTANT has written consent to disclose signed by an authorized representative of CITY.

28.3. Notwithstanding the foregoing, CONSULTANT may disclose Confidential Information to the extent required by order of a court of competent jurisdiction or governmental body, provided that CONSULTANT will notify CITY in writing of such order immediately upon receipt and prior to any such disclosure (unless CONSULTANT is prohibited by law from doing so), to give CITY an opportunity to oppose or otherwise respond to such order.

28.4. CONSULTANT will notify City promptly upon learning of any breach in the security of its systems or unauthorized disclosure of, or access to, Confidential Information in its possession or control, and if such Confidential Information consists of Personal Information, CONSULTANT will provide information to CITY sufficient to meet the notice requirements of Civil Code Section 1798 et seq., as applicable, as amended from time to time.

28.5. Prior to or upon termination or expiration of this Agreement, CONSULTANT will honor any request from the CITY to return or securely destroy all copies of Confidential Information. All Confidential Information is and will remain the property of the CITY and nothing contained in this Agreement grants or confers any rights to such Confidential Information on CONSULTANT.

28.6. If selected in Section 30 (Exhibits), this Agreement is also subject to the terms and conditions of the Information Privacy Policy and Cybersecurity Terms and Conditions.

SECTION 29. MISCELLANEOUS PROVISIONS.

29.1. This Agreement will be governed by California law, without regard to its
29.2. In the event that an action is brought, the parties agree that trial of such action will be vested exclusively in the state courts of California in the County of Santa Clara, State of California.

29.3. The prevailing party in any action brought to enforce the provisions of this Agreement may recover its reasonable costs and attorneys’ fees expended in connection with that action. The prevailing party shall be entitled to recover an amount equal to the fair market value of legal services provided by attorneys employed by it as well as any attorneys’ fees paid to third parties.

29.4. This Agreement, including all exhibits, constitutes the entire and integrated agreement between the parties with respect to the subject matter of this Agreement, and supersedes all prior agreements, negotiations, representations, statements and undertakings, either oral or written. This Agreement may be amended only by a written instrument, which is signed by the authorized representatives of the parties and approved as required under Palo Alto Municipal Code, as amended from time to time.

29.5. If a court of competent jurisdiction finds or rules that any provision of this Agreement is void or unenforceable, the unaffected provisions of this Agreement will remain in full force and effect.

29.6. In the event of a conflict between the terms of this Agreement and the exhibits hereto (per Section 30) or CONSULTANT’s proposal (if any), the Agreement shall control. In the event of a conflict between the exhibits hereto and CONSULTANT’s proposal (if any), the exhibits shall control.

29.7. The provisions of all checked boxes in this Agreement shall apply to this Agreement; the provisions of any unchecked boxes shall not apply to this Agreement.

29.8. All section headings contained in this Agreement are for convenience and reference only and are not intended to define or limit the scope of any provision of this Agreement.

29.9. This Agreement may be signed in multiple counterparts, which, when executed by the authorized representatives of the parties, shall together constitute a single binding agreement.

SECTION 30. EXHIBITS. Each of the following exhibits, if the check box for such exhibit is selected below, is hereby attached and incorporated into this Agreement by reference as though fully set forth herein:

- [X] EXHIBIT A: SCOPE OF SERVICES
- [X] EXHIBIT A-1 PROFESSIONAL SERVICES TASK ORDER
- [X] EXHIBIT B: SCHEDULE OF PERFORMANCE
- [X] EXHIBIT C: COMPENSATION
- [X] EXHIBIT C-1: SCHEDULE OF RATES
- [X] EXHIBIT D: INSURANCE REQUIREMENTS
THIS AGREEMENT IS NOT COMPLETE UNLESS ALL SELECTED EXHIBITS ARE ATTACHED.
CONTRACT NO. S22181819A SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement as of the date first above written.

CITY OF PALO ALTO

City Manager (Required on contracts over $85,000)

APPROVED AS TO FORM:

City Attorney or designee

GDS ASSOCIATES, INC.

Officer 1

By: KJM

Name: Kevin J. Mara

Title: Ex Vice President

Officer 2 (Required for Corp. or LLC)

By: PH

Name: Paul Huber

Title: CFO/VP
EXHIBIT A
SCOPE OF SERVICES

CONSULTANT shall provide the Services detailed in this Exhibit A, entitled “SCOPE OF SERVICES”.

PURPOSE

CONSULTANT shall provide on-call, as-needed Task-Order based rate design and financial consulting to its Electric, Gas, Water and Wastewater Collection Utilities, primarily focusing on cost of service allocation, rate design, and financial planning and forecasting, for a five-year period. The City may utilize multiple pre-qualified consultants, to respond with proposals to the City’s Task Order description for individual projects (see “TASK ORDER PROPOSAL AND SELECTION PROCESS” section, below). Utility staff performs annual financial forecasts in-house, but periodically requires consulting services to design and update cost of service studies as part of an evaluation of the adequacy and fairness of its rate structures. Cost of service studies for all utilities are evaluated and updated annually or as needed but undergo a deeper consultant review for adequacy every three to seven years, or as industry changes warrant.

The City anticipates a need for continuing rate analysis and adjustments to its cost of service models resulting from policy and operational evaluations the City is currently undertaking, as well as developing industry trends. The policy and operational evaluations include, but are not limited to, a smart grid planning and implementation efforts, billing system transitions and updates, as well as revisions to the City’s sustainability plan. Industry trends include a movement toward time variant pricing among California utilities, evolving case law related to Propositions 218 and 26, higher electric vehicle penetration, and the continuing development of new customer-side technologies such as storage, microgrids, and grid-interactive appliances. Many of these plans and trends are likely to have rate impacts, either in the short term or in the long term. The City is also considering climate action goals that could have significant impacts to utility services. The City is seeking consultant(s) who can provide advisory services and analysis on these topics and make adjustments to its cost of service models when necessary.

DELIVERABLES

Consultant’s deliverables will be determined on a task-by-task basis. Deliverables may include one-time written reports, periodic written reports and updates, oral presentations, recommendations and analysis. As specified more clearly on the applicable Task Order (in form of Exhibit A-1 of the Professional Services Agreement), all reports and written material must be provided to and approved by Resource Management Division (RMD) staff prior to delivery to outside agencies.
TYPES OF SERVICES:

The Consultant(s) may be asked to perform Services for the Utilities Department on an on-call, as-needed Task Order basis. The term of the contract is intended to be one year, with up to four additional one-year extensions upon mutual agreement of Consultant and City. Projects which the City may request Services for include:

1) **Financial Planning and Rate Design Consulting** - Provide City with technical support related to financial planning and rate design issues in the Electric, Gas, Water and/or Wastewater Collection utilities including:
   
a) Cost of service (COS) models;
   
   a. Major and/or minor updates to existing COS models;
   
   b. Building new COS models;
   
b) Building and/or refinement of retail rate models and/or structures;
   
c) Design rate schedules to serve new customer types;
   
d) Assistance with designing pilot rate programs;
   
e) Performing connection fee studies;
   
f) Marginal cost studies;
   
g) Financial planning analysis;
   
   i) Review and analysis of existing financial plans;
   
   ii) Building and/or refinement of new financial plans;
   
   iii) Aligning financial plan models with City’s budget and comprehensive annual financial report (CAFR) documents
   
h) Load research studies;
   
i) Weather correction analysis
   
j) Cash vs Utility basis accounting

2) **Utility Financial and Management Analysis** - Assist City by providing advice, research, analysis, and support related to utility operational or strategic planning. Some examples of such projects are:

   a) Financial planning, scenario development, and impact analysis of the implementation of electrification initiatives in Palo Alto, including assessing impacts of electrification and fuel switching on future loads and customer allocations;
b) Financial planning, rate design, and cost of service analysis related to greenhouse gas regulation compliance including, but not limited to, Cap and Trade and Low Carbon Fuel Standard (LCFS);

c) Assist with the design of cost allocation strategies and business practices for use of revenue from defined revenue streams (e.g. Public Benefits funds, Cap and Trade, LCFS, etc.);

d) Assist in the development of new utility structures and divisions (such as a new recycled water division);

e) Providing general advice, research, or analysis related to ratemaking, financial planning, or financial impacts of long-term system planning;

f) Writing reports related to ratemaking, financial planning, or financial impacts of long term system planning;

g) Presenting to policy makers, stakeholders, internal staff, or others regarding ratemaking, financial planning, or financial impacts of long term system planning

The successful vendor (or vendors) must complete a non-disclosure agreement completed in order to receive customer information which may be needed to complete any response to this RFP.

TASK ORDER PROPOSAL AND CONSULTANT SELECTION PROCESS

The CITY intends to issue Task Orders to the pool of pre-qualified rate design and financial consultants, which will include specific and individual Scopes of Services for each project. Pre-qualified consultants may respond with proposals to the CITY’s Task Order for individual projects identified on each Task Order.

For each response to a Task Order proposal, the CONSULTANT shall submit the following within three weeks, for CITY’s review and evaluation of best value for the particular project:

- CONSULTANT firm’s experience with the work related to the Task(s)
- Preliminary schedule
- Proposed additions, subtractions or modifications to the Scope of Services described by CITY for any specific tasks
- Not to Exceed fee

The City may negotiate each Scope of Services and price with one or more pre-qualified Consultants prior to CITY’s Project Manager drafting final Task Order(s) for requisite approvals under any Professional Services Agreement.
EXHIBIT A-1

PROFESSIONAL SERVICES TASK ORDER

CONSULTANT shall perform the Services detailed below in accordance with all the terms and conditions of the Agreement referenced in Item 1A below. All exhibits referenced in Item 8 are incorporated into this Task Order by this reference. CONSULTANT shall furnish the necessary facilities, professional, technical and supporting personnel required by this Task Order as described below.

1. CONTRACT NO.
   OR PURCHASE ORDER REQUISITION NO. (AS APPLICABLE)

2. MASTER AGREEMENT NO. (MAY BE SAME AS CONTRACT / P.O. NO. ABOVE):

3. TASK ORDER NO.:

4. CONSULTANT NAME:

5. PERIOD OF PERFORMANCE: START: COMPLETION:

6. TOTAL TASK ORDER PRICE: $__________________
   BALANCE REMAINING IN MASTER AGREEMENT/CONTRACT $__________________

7. BUDGET CODE_______________
   COST CENTER________________
   COST ELEMENT______________
   WBS/CIP__________
   PHASE____________________

8. CITY PROJECT MANAGER’S NAME & DEPARTMENT:_____________________________________

9. DESCRIPTION OF SCOPE OF SERVICES (Attachment A)
   MUST INCLUDE:
    SERVICES AND DELIVERABLES TO BE PROVIDED
    SCHEDULE OF PERFORMANCE
    MAXIMUM COMPENSATION AMOUNT AND RATE SCHEDULE (as applicable)
    REIMBURSABLE EXPENSES, if any (with “not to exceed” amount)

10. ATTACHMENTS: A: Task Order Scope of Services B (if any): ____________________________

I hereby authorize the performance of the work described in this Task Order.

APPROVED:
CITY OF PALO ALTO

BY:__________________________
Name__________________________
Title__________________________
Date__________________________

I hereby acknowledge receipt and acceptance of this Task Order and warrant that I have authority to sign on behalf of Consultant.

APPROVED:
COMPANY NAME:__________________________

BY:__________________________
Name__________________________
Title__________________________
Date__________________________
EXHIBIT B
SCHEDULE OF PERFORMANCE

☑ Optional Schedule of Performance Provision for On-Call or Additional Services Agreements.
(This provision only applies if checked and only applies to on-call agreements per Section 1 or agreements with Additional Services per Section 4.)

The schedule of performance shall be as provided in the approved Task Order, as detailed in Section 1 (Scope of Services) in the case of on-call Services, or as detailed in Section 4 in the case of Additional Services, provided in all cases that the schedule of performance shall fall within the term as provided in Section 2 (Term) of this Agreement.
EXHIBIT C
COMPENSATION

CITY agrees to compensate CONSULTANT for on-call, as-needed, time-limited project support services performed in accordance with the terms and conditions of this Agreement, and as set forth in a specific Task Order budget schedule. Compensation shall be calculated based on the rate schedule attached as Exhibit C-1, if applicable, up to the not to exceed budget amount for each task set forth in a specific Task Order. Each Task Order shall contain a maximum compensation amount, specified by CITY, based on a negotiated lump sum.

CITY’s Project Manager may approve in writing the transfer of budget amounts between any of the tasks or categories within a specific Task Order, provided that the total compensation for the Services, including any specified reimbursable expenses, and the total compensation for Additional Services (if any, per Section 4 of the Agreement) do not exceed the amounts set forth in Section 4 of this Agreement.

CONSULTANT agrees to complete all Services, any specified reimbursable expenses, and Additional Services (if any, per Section 4), within this/these amount(s). Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth in this Agreement shall be at no cost to the CITY.

REIMBURSABLE EXPENSES

CONSULTANT’S ordinary business expenses, such as administrative, overhead, administrative support time/overtime, information systems, software and hardware, photocopying, telecommunications (telephone, internet), in-house printing, insurance and other ordinary business expenses, are included within the scope of payment for Services and are not reimbursable expenses hereunder.

Reimbursable expenses, if any are specified as reimbursable under this section, will be reimbursed at actual cost. The expenses (by type, e.g. travel) for which CONSULTANT will be reimbursed are: NONE up to the not-to-exceed amount of $0.00.

A. Travel outside the San Francisco Bay Area, including transportation and meals, if specified as reimbursable, will be reimbursed at actual cost subject to the City of Palo Alto’s policy for reimbursement of travel and meal expenses.

B. Long distance telephone service charges, cellular phone service charges, facsimile transmission and postage charges, if specified as reimbursable, will be reimbursed at actual cost.

All requests for reimbursement of expenses, if any are specified as reimbursable under this section, shall be accompanied by appropriate backup documentation and information.
The applicable rate schedule by which CONSULTANT will be paid for Services rendered under this Agreement and its Task Order(s), if any, is set forth below as Exhibit “C-1”, entitled “SCHEDULE OF RATES”. The fee schedules attached hereto in Exhibit C-1 shall apply during the first two years of the term of the Agreement. Thereafter, CONTRACTOR’s compensation rates shall be adjusted annually effective on the commencement of the 3rd year, as follows: Each unit price, hourly rates, and fee, as set forth the attached fee schedule, 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), published most immediately preceding the commencement of the applicable contract year, compared with the CPI published for the prior year. Notwithstanding the foregoing, in no event shall CONTRACTOR’s compensation rates be increased by an amount exceeding five percent of the rates effective during the immediately preceding contract year. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum compensation as set forth herein shall be at no cost to the CITY.

CONSULTANT’s schedule of rates is as follows:
CITY OF PALO ALTO
RFP NO. 181819
ON-CALL FINANCIAL PLANNING, RATE DESIGN AND ANALYSIS FOR THE UTILITIES DEPARTMENT

COST TABLE

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<th>Scope</th>
<th>Labor Categories</th>
<th>Est. Hours</th>
<th>Hourly Rate</th>
<th>Extended Rate</th>
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<td>Managing Director/Senior Project Manager</td>
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<td>Senior Analyst/Engineer</td>
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</table>

*The estimated hours and not-to-exceed for each task will be determined once a defined scope is available for each task.*
EXHIBIT D
INSURANCE REQUIREMENTS

CONSULTANTS 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 HEREIN.

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<th>TYPE OF COVERAGE</th>
<th>REQUIREMENT</th>
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<td>EACH OCCURRENCE</td>
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<td>WORKER’S COMPENSATION</td>
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<td>EMPLOYER’S LIABILITY</td>
<td>STATUTORY</td>
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<td>GENERAL LIABILITY, INCLUDING PERSONAL INJURY, BROAD FORM PROPERTY DAMAGE BLANKET CONTRACTUAL, AND FIRE LEGAL LIABILITY</td>
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<td>PROPERTY DAMAGE</td>
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<td></td>
<td>BODILY INJURY &amp; PROPERTY DAMAGE COMBINED.</td>
<td>$1,000,000</td>
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<td>YES</td>
<td>AUTOMOBILE LIABILITY, INCLUDING ALL OWNED, HIRED, NON-OWNED</td>
<td>BODILY INJURY</td>
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<td>- EACH PERSON</td>
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<td>PROPERTY DAMAGE</td>
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<td>BODILY INJURY AND PROPERTY DAMAGE, COMBINED</td>
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<tr>
<td>YES</td>
<td>PROFESSIONAL LIABILITY, INCLUDING ERRORS AND OMISSIONS, MALPRACTICE (WHEN APPLICABLE), AND NEGLIGENT PERFORMANCE</td>
<td>ALL DAMAGES</td>
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<tr>
<td>YES</td>
<td>THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED: CONSULTANT, 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 CONSULTANT 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>
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I. INSURANCE COVERAGE MUST INCLUDE:
   A. A CONTRACTUAL LIABILITY ENDORSEMENT PROVIDING INSURANCE COVERAGE FOR CONSULTANT’S AGREEMENT TO INDEMNIFY CITY.

II. THE CONSULTANT 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 INSURED 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 INSURED, 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 CONSULTANT 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 CONSULTANT SHALL PROVIDE CITY AT LEAST A TEN (10) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

EVIDENCE OF INSURANCE AND OTHER RELATED NOTICES ARE REQUIRED TO BE FILED 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
CITY OF PALO ALTO CONTRACT NO. C22181819B

AGREEMENT FOR PROFESSIONAL SERVICES

BETWEEN THE CITY OF PALO ALTO AND RAFTELIS FINANCIAL CONSULTANTS, INC.

This Agreement for Professional Services (this “Agreement”) is entered into as of the 15th day of November 2021 (the “Effective Date”), by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and RAFTELIS FINANCIAL CONSULTANTS, INC., a North Carolina corporation, located at 227 West Trade Street, Suite 1400, Charlotte, NC 28202 (“CONSULTANT”).

The following recitals are a substantive portion of this Agreement and are fully incorporated herein by this reference:

RECITALS

A. CITY intends to contract for Task-Order based rate design and financial consulting to its Electric, Gas, Water and Wastewater Collection Utilities (the “Project”) and desires to engage a consultant to primarily focus on cost of service allocation, rate design, and financial planning and forecasting on an on-call, as-needed, time-limited basis in connection with the Project (the “Services”, as detailed more fully in Exhibit A).

B. CONSULTANT represents that it, its employees and subconsultants, if any, possess the necessary professional expertise, qualifications, and capability, and all required licenses and/or certifications to provide the Services.

C. CITY, in reliance on these representations, desires to engage CONSULTANT to provide the Services as more fully described in Exhibit A, entitled “SCOPE OF SERVICES”.

NOW, THEREFORE, in consideration of the recitals, covenants, terms, and conditions, in this Agreement, the parties agree as follows:

SECTION 1. SCOPE OF SERVICES. CONSULTANT shall perform the Services described in Exhibit A in accordance with the terms and conditions contained in this Agreement on an on-call, as-needed basis. The performance of all Services shall be to the reasonable satisfaction of CITY.

☒ Optional On-Call Provision (This provision only applies if checked and only applies to on-call agreements.)

CITY may elect to, but is not required to, authorize on-call Services up to the maximum compensation amount set forth in Section 4 (Not to Exceed Compensation).
CONSULTANT shall provide on-call Services only by advanced, written authorization from CITY as detailed in this Section. On-call Services, if any, shall be authorized by CITY, as needed, with a Task Order assigned and approved by CITY’s authorized representative, following the “Task Order Proposal and Selection Process” set forth in Exhibit A. Each Task Order shall be in substantially the same form as Exhibit A-1 entitled “PROFESSIONAL SERVICES TASK ORDER”. Each Task Order shall contain a specific scope of services, schedule of performance and maximum compensation amount, in accordance with the provisions of this Agreement. Compensation for on-call Services shall be specified by CITY in the Task Order, based on a negotiated lump sum.

To accept a Task Order, CONSULTANT shall sign the Task Order and return it to CITY’s Project Manager within the time specified by the Project Manager, and upon authorization by CITY (defined as counter-signature by the CITY Project Manager), the fully executed Task Order shall become part of this Agreement. The cumulative total compensation due to CONSULTANT for all Task Orders issued under this Agreement shall not exceed the amount of compensation set forth in Section 4. CONSULTANT shall only be compensated for on-call Services performed under an authorized Task Order and only up to the maximum compensation amount set forth in Section 4. Performance of and payment for any on-call Services are subject to all requirements and restrictions in this Agreement.

SECTION 2. TERM.
The term of this Agreement shall be from the date of its full execution through December 31, 2026 unless terminated earlier pursuant to Section 19 (Termination) of this Agreement.

SECTION 3. SCHEDULE OF PERFORMANCE. Time is of the essence in the performance of Services under this Agreement. CONSULTANT shall complete the Services within the term of this Agreement and in accordance with the schedule set forth in Exhibit B, entitled “SCHEDULE OF PERFORMANCE”. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by CONSULTANT in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the CONSULTANT. CITY’s agreement to extend the term or the schedule for performance shall not preclude recovery of damages for delay if the extension is required due to the fault of CONSULTANT.

SECTION 4. NOT TO EXCEED COMPENSATION. The CITY is engaging multiple consultants, including CONSULTANT, that are eligible to respond with proposals to the CITY’S project-specific Task Orders under the “Task Order Proposal and Selection Process” described in Exhibit A. The compensation to be paid to CONSULTANT for performance of the Services shall be based on the compensation structure detailed in Exhibit C, entitled “COMPENSATION,” including any reimbursable expenses specified therein, and the maximum total compensation shall not exceed One Dollar ($1), unless CITY selects CONSULTANT, according to the “Task Order Proposal and Selection Process” in Exhibit A, to perform Services under a Task Order not to exceed Two Hundred Twenty-Five Thousand Dollars ($225,000) per year, for a total not to exceed amount of One Million One Hundred Twenty-Five Thousand Dollars ($1,125,000) over the term of the Agreement. No pre-qualified consultant, including the CONSULTANT under this Agreement, is guaranteed selection or assured of any minimum quantity of work to be performed. In the event CONSULTANT is not selected to provide Services under a Task Order, no payment is due from CITY. The hourly schedule of rates, if applicable, is set out in Exhibit C-
1, entitled “SCHEDULE OF RATES.” Any work performed or expenses incurred for which payment would result in a total exceeding the maximum compensation set forth in this Section 4 shall be at no cost to the CITY.

**Optional Additional Services Provision** (This provision applies only if checked and a not-to-exceed compensation amount for Additional Services is allocated below under this Section 4.)

In addition to the not-to-exceed compensation specified above, CITY has set aside the not-to-exceed compensation amount of **Twenty-Five Thousand Dollars ($25,000)** per year for a total not to exceed of **One Hundred Twenty-Five Thousand Dollars ($125,000)** for the performance of Additional Services (as defined below). The total compensation for performance of the Services, Additional Services and any reimbursable expenses specified in Exhibit C, shall not exceed **Two Hundred Fifty Thousand ($250,000)** per year, for a total not to exceed amount of **One Million Two Hundred Fifty-Thousand Dollars ($1,250,000)**, as detailed in Exhibit C.

“Additional Services” means 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 in a Task Order issued under Exhibit A. CITY may elect to, but is not required to, authorize Additional Services up to the maximum amount of compensation set forth for Additional Services in this Section 4. CONSULTANT shall provide Additional Services only by advanced, written authorization from CITY as detailed in this Section. Additional Services, if any, shall be authorized by CITY with a Task Order assigned and authorized by CITY’s Project Manager, as identified in Section 13 (Project Management). Each Task Order shall be in substantially the same form as Exhibit A-1, entitled “PROFESSIONAL SERVICES TASK ORDER”. Each Task Order shall contain a specific scope of services, schedule of performance and maximum compensation amount, in accordance with the provisions of this Agreement. Compensation for Additional Services shall be specified by CITY in the Task Order, based on a negotiated lump sum.

To accept a Task Order, CONSULTANT shall sign the Task Order and return it to CITY’s Project Manager within the time specified by the Project Manager, and upon authorization by CITY (defined as counter-signature by the CITY Project Manager), the fully executed Task Order shall become part of this Agreement. The cumulative total compensation to CONSULTANT for all Task Orders authorized under this Agreement shall not exceed the amount of compensation set forth for Additional Services in this Section 4. CONSULTANT shall only be compensated for Additional Services performed under an authorized Task Order and only up to the maximum amount of compensation set forth for Additional Services in this Section 4. Performance of and payment for any Additional Services are subject to all requirements and restrictions in this Agreement.

**SECTION 5. INVOICES.** In order to request payment, CONSULTANT shall submit monthly invoices to the CITY describing the Services performed and the applicable charges (including, if applicable, an identification of personnel who performed the Services, hours worked, hourly rates, and reimbursable expenses), based upon Exhibit C or, as applicable, CONSULTANT’s schedule of rates set forth in Exhibit C-1. If applicable, the invoice shall also describe the percentage of completion of each task. The information in CONSULTANT’s invoices shall be subject to
verification by CITY. CONSULTANT shall send all invoices to CITY’s Project Manager at the address specified in Section 13 (Project Management) below. CITY will generally process and pay invoices within thirty (30) days of receipt of an acceptable invoice.

SECTION 6. QUALIFICATIONS/STANDARD OF CARE. All Services shall be performed by CONSULTANT or under CONSULTANT’s supervision. CONSULTANT represents that it, its employees and subcontractors, if any, possess the professional and technical personnel necessary to perform the Services required by this Agreement and that the personnel have sufficient skill and experience to perform the Services assigned to them. CONSULTANT represents that it, its employees and subcontractors, if any, have and shall maintain during the term of this Agreement all licenses, permits, qualifications, insurance and approvals of whatever nature that are legally required to perform the Services. All Services to be furnished by CONSULTANT under this Agreement shall meet the professional standard and quality that prevail among professionals in the same discipline and of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.

SECTION 7. COMPLIANCE WITH LAWS. CONSULTANT shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement, as amended from time to time. CONSULTANT shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

SECTION 8. ERRORS/OMISSIONS. CONSULTANT is solely responsible for costs, including, but not limited to, increases in the cost of Services, arising from or caused by CONSULTANT’s errors and omissions, including, but not limited to, the costs of corrections such errors and omissions, any change order markup costs, or costs arising from delay caused by the errors and omissions or unreasonable delay in correcting the errors and omissions.

SECTION 9. COST ESTIMATES. If this Agreement pertains to the design of a public works project, CONSULTANT shall submit estimates of probable construction costs at each phase of design submittal. If the total estimated construction cost at any submittal exceeds the CITY’s stated construction budget by ten percent (10%) or more, CONSULTANT shall make recommendations to CITY for aligning the Project design with the budget, incorporate CITY approved recommendations, and revise the design to meet the Project budget, at no additional cost to CITY.

SECTION 10. INDEPENDENT CONTRACTOR. CONSULTANT acknowledges and agrees that CONSULTANT and any agent or employee of CONSULTANT will act as and shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which CONSULTANT performs the Services requested by CITY under this Agreement. CONSULTANT and any agent or employee of CONSULTANT will not have employee status with CITY, nor be entitled to participate in any plans, arrangements, or distributions by CITY pertaining to or in connection with any retirement, health or other benefits that CITY may offer its employees. CONSULTANT will be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, workers’ compensation, unemployment compensation, insurance, and other similar responsibilities related to CONSULTANT’s performance of the Services, or any agent or
employee of CONSULTANT providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between CITY and CONSULTANT or any agent or employee of CONSULTANT. Any terms in this Agreement referring to direction from CITY shall be construed as providing for direction as to policy and the result of CONSULTANT’s provision of the Services only, and not as to the means by which such a result is obtained.

SECTION 11. ASSIGNMENT. The parties agree that the expertise and experience of CONSULTANT are material considerations for this Agreement. CONSULTANT shall not assign or transfer any interest in this Agreement nor the performance of any of CONSULTANT’s obligations hereunder without the prior written approval of the City Manager. Any purported assignment made without the prior written approval of the City Manager will be void and without effect. Subject to the foregoing, the covenants, terms, conditions and provisions of this Agreement will apply to, and will bind, the heirs, successors, executors, administrators and assignees of the parties.

SECTION 12. SUBCONTRACTING.

☐ Option A: No Subcontractor: CONSULTANT shall not subcontract any portion of the Services to be performed under this Agreement without the prior written authorization of the City Manager or designee. In the event CONSULTANT does subcontract any portion of the work to be performed under this Agreement, CONSULTANT shall be fully responsible for all acts and omissions of subcontractors.

☐ Option B: Subcontracts Authorized: Notwithstanding Section 11 (Assignment) above, CITY agrees that subcontractors may be used to complete the Services. The subcontractors authorized by CITY to perform work on this Project are:

CONSULTANT shall be responsible for directing the work of any subcontractors and for any compensation due to subcontractors. CITY assumes no responsibility whatsoever concerning compensation of subcontractors. CONSULTANT shall be fully responsible to CITY for all acts and omissions of subcontractors. CONSULTANT shall change or add subcontractors only with the prior written approval of the City Manager or designee.

SECTION 13. PROJECT MANAGEMENT. CONSULTANT will assign Nancy Phan as the CONSULTANT’s Project Manager to have supervisory responsibility for the performance, progress, and execution of the Services and represent CONSULTANT during the day-to-day performance of the Services. If circumstances cause the substitution of the CONSULTANT’s Project Manager or any other of CONSULTANT’s key personnel for any reason, the appointment of a substitute Project Manager and the assignment of any key new or replacement personnel will be subject to the prior written approval of the CITY’s Project Manager. CONSULTANT, at CITY’s request, shall promptly remove CONSULTANT personnel who CITY finds do not perform the Services in an acceptable manner, are uncooperative, or present a threat to the adequate or timely completion of the Services or a threat to the safety of persons or property.

CITY’s Project Manager is Eric Keniston, Utilities Department, Resource Management Division, 250 Hamilton Avenue, Palo Alto, CA, 94301, Telephone:650-329-2386. CITY’s Project Manager will be CONSULTANT’s point of contact with respect to performance, progress and execution of
the Services. CITY may designate an alternate Project Manager from time to time.

SECTION 14. OWNERSHIP OF MATERIALS. All work product, including without limitation, all writings, drawings, studies, sketches, photographs, plans, reports, specifications, computations, models, recordings, data, documents, and other materials developed under this Agreement, in any form or media, shall be and remain the exclusive property of CITY without restriction or limitation upon their use. Neither CONSULTANT nor its subcontractors, if any, shall make any of such work product available to any individual or organization without the prior written approval of the City Manager or designee. CONSULTANT makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the Scope of Services.

SECTION 15. AUDITS. CONSULTANT agrees to permit CITY and its authorized representatives to audit, at any reasonable time during the term of this Agreement and for four (4) years from the date of final payment, CONSULTANT’s records pertaining to the Services covered by this Agreement, including without limitation records demonstrating compliance with the requirements of Section 10 (Independent Contractor). CONSULTANT further agrees to maintain and retain accurate books and records in accordance with generally accepted accounting principles for at least four (4) years after the expiration or earlier termination of this Agreement or the completion of any audit hereunder, whichever is later.

SECTION 16. INDEMNITY.

[Option A applies to the following design professionals pursuant to Civil Code Section 2782.8: architects; landscape architects; registered professional engineers and licensed professional land surveyors.] 16.1. To the fullest extent permitted by law, CONSULTANT shall indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an “Indemnified Party”) from and against any and all third party demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorney’s fees, experts fees, court costs and disbursements (“Claims”) to the extent that such Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party. CITY will reimburse CONSULTANT for the proportionate percentage of defense costs exceeding CONSULTANT’s proportionate percentage of fault as determined by the final judgment of a court of competent jurisdiction.

[Option B applies to any consultant who does not qualify as a design professional as defined in Civil Code Section 2782.8.] 16.1. To the fullest extent permitted by law, CONSULTANT shall indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an “Indemnified Party”) from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorney’s fees, experts fees, court costs and disbursements (“Claims”) resulting from, arising out of or in any manner related to any negligence, reckless or willful misconduct in the performance or nonperformance by CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.
16.2. Notwithstanding the above, nothing in this Section 16 shall be construed to require CONSULTANT to indemnify an Indemnified Party from a Claim arising from the active negligence or willful misconduct of an Indemnified Party that is not contributed to by any act of, or by any omission to perform a duty imposed by law or agreement by, CONSULTANT, its officers, employees, agents or contractors under this Agreement.

16.3. The acceptance of CONSULTANT’s Services and duties by CITY shall not operate as a waiver of the right of indemnification. The provisions of this Section 16 shall survive the expiration or early termination of this Agreement.

SECTION 17. WAIVERS. No waiver of a condition or nonperformance of an obligation under this Agreement is effective unless it is in writing in accordance with Section 29.4 of this Agreement. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted shall apply solely to the specific instance expressly stated. No single or partial exercise of any right or remedy will preclude any other or further exercise of any right or remedy.

SECTION 18. INSURANCE.

18.1. CONSULTANT, at its sole cost and expense, shall obtain and maintain, in full force and effect during the term of this Agreement, the insurance coverage described in Exhibit D, entitled “INSURANCE REQUIREMENTS”. CONSULTANT and its contractors, if any, shall obtain a policy endorsement naming CITY as an additional insured under any general liability or automobile policy or policies.

18.2. All insurance coverage required hereunder shall be provided through carriers with AM Best’s Key Rating Guide ratings of A-:VII or higher which are licensed or authorized to transact insurance business in the State of California. Any and all contractors of CONSULTANT retained to perform Services under this Agreement will obtain and maintain, in full force and effect during the term of this Agreement, identical insurance coverage, naming CITY as an additional insured under such policies as required above.

18.3. Certificates evidencing such insurance shall be filed with CITY concurrently with the execution of this Agreement. The certificates will be subject to the approval of CITY’s Risk Manager and will contain an endorsement stating that the insurance is primary coverage and will not be canceled, or materially reduced in coverage or limits, by the insurer except after filing with the Purchasing Manager thirty (30) days’ prior written notice of the cancellation or modification. If the insurer cancels or modifies the insurance and provides less than thirty (30) days’ notice to CONSULTANT, CONSULTANT shall provide the Purchasing Manager written notice of the cancellation or modification within two (2) business days of the CONSULTANT’s receipt of such notice. CONSULTANT shall be responsible for ensuring that current certificates evidencing the insurance are provided to CITY’s Chief Procurement Officer during the entire term of this Agreement.

18.4. The procuring of such required policy or policies of insurance will not be construed to limit CONSULTANT’s liability hereunder nor to fulfill the indemnification provisions of this Agreement. Notwithstanding the policy or policies of insurance, CONSULTANT will be obligated for the full and total amount of any damage, injury, or loss.
caused by or directly arising as a result of the Services performed under this Agreement, including such damage, injury, or loss arising after the Agreement is terminated or the term has expired.

SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

19.1. The City Manager may suspend the performance of the Services, in whole or in part, or terminate this Agreement, with or without cause, by giving ten (10) days prior written notice thereof to CONSULTANT. If CONSULTANT fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided under this Agreement or at law, the City Manager may terminate this Agreement sooner upon written notice of termination. Upon receipt of any notice of suspension or termination, CONSULTANT will discontinue its performance of the Services on the effective date in the notice of suspension or termination.

19.2. In event of suspension or termination, CONSULTANT will deliver to the City Manager on or before the effective date in the notice of suspension or termination, any and all work product, as detailed in Section 14 (Ownership of Materials), whether or not completed, prepared by CONSULTANT or its contractors, if any, in the performance of this Agreement. Such work product is the property of CITY, as detailed in Section 14 (Ownership of Materials).

19.3. In event of suspension or termination, CONSULTANT will be paid for the Services rendered and work products delivered to CITY in accordance with the Scope of Services up to the effective date in the notice of suspension or termination; provided, however, if this Agreement is suspended or terminated on account of a default by CONSULTANT, CITY will be obligated to compensate CONSULTANT only for that portion of CONSULTANT’s Services provided in material conformity with this Agreement as such determination is made by the City Manager acting in the reasonable exercise of his/her discretion. The following Sections will survive any expiration or termination of this Agreement: 14, 15, 16, 17, 19.2, 19.3, 19.4, 20, 25, 27, 28, 29 and 30.

19.4. No payment, partial payment, acceptance, or partial acceptance by CITY will operate as a waiver on the part of CITY of any of its rights under this Agreement, unless made in accordance with Section 17 (Waivers).

SECTION 20. NOTICES.

All notices hereunder will be given in writing and mailed, postage prepaid, by certified mail, addressed as follows:

To CITY: Office of the City Clerk
City of Palo Alto
Post Office Box 10250
Palo Alto, CA  94303

With a copy to the Purchasing Manager

To CONSULTANT: Attention of the Project Manager at the address of CONSULTANT recited on the first page of this Agreement.
CONSULTANT shall provide written notice to CITY of any change of address.

SECTION 21. CONFLICT OF INTEREST.

21.1. In executing this Agreement, CONSULTANT 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 the Services.

21.2. CONSULTANT further covenants that, in the performance of this Agreement, it will not employ subcontractors or other persons or parties having such an interest. CONSULTANT certifies that no person who has or will have any financial interest under this Agreement is an officer or employee of CITY; this provision will be interpreted in accordance with the applicable provisions of the Palo Alto Municipal Code and the Government Code of the State of California, as amended from time to time. CONSULTANT agrees to notify CITY if any conflict arises.

21.3. If the CONSULTANT meets the definition of a “Consultant” as defined by the Regulations of the Fair Political Practices Commission, CONSULTANT will file the appropriate financial disclosure documents required by the Palo Alto Municipal Code and the Political Reform Act of 1974, as amended from time to time.

SECTION 22. NONDISCRIMINATION; COMPLIANCE WITH ADA.

22.1. As set forth in Palo Alto Municipal Code Section 2.30.510, as amended from time to time, CONSULTANT certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person due to that person’s race, skin color, gender, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, pregnancy, genetic information or condition, housing status, marital status, familial status, weight or height of such person. CONSULTANT 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.

22.2. CONSULTANT understands and agrees that pursuant to the Americans Disabilities Act (“ADA”), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor or subcontractor, are required to be accessible to the disabled public. CONSULTANT will provide the Services specified in this Agreement in a manner that complies with the ADA and any other applicable federal, state and local disability rights laws and regulations, as amended from time to time. CONSULTANT will not discriminate against persons with disabilities in the provision of services, benefits or activities provided under this Agreement.

SECTION 23. ENVIRONMENTALLY PREFERRED PURCHASING AND ZERO WASTE REQUIREMENTS. CONSULTANT shall comply with the CITY’s Environmentally Preferred Purchasing policies which are available at CITY’s Purchasing Department, hereby incorporated by reference and as amended from time to time. CONSULTANT shall comply with waste reduction, reuse, recycling and disposal requirements of CITY’s Zero Waste Program.
Waste best practices include, first, minimizing and reducing waste; second, reusing waste; and, third, recycling or composting waste. In particular, CONSULTANT shall comply with the following Zero Waste requirements:

(a) All printed materials provided by CONSULTANT 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.

(b) Goods purchased by CONSULTANT 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 Department’s office.

(c) Reusable/returnable pallets shall be taken back by CONSULTANT, at no additional cost to CITY, for reuse or recycling. CONSULTANT shall provide documentation from the facility accepting the pallets to verify that pallets are not being disposed.

SECTION 24. COMPLIANCE WITH PALO ALTO MINIMUM WAGE ORDINANCE.
CONSULTANT shall comply with all requirements of the Palo Alto Municipal Code Chapter 4.62 (Citywide Minimum Wage), as 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, CONSULTANT shall pay such employees no less than the minimum wage set forth in Palo Alto Municipal Code Section 4.62.030 for each hour worked within the geographic boundaries of the City of Palo Alto. In addition, CONSULTANT shall post notices regarding the Palo Alto Minimum Wage Ordinance in accordance with Palo Alto Municipal Code Section 4.62.060.

SECTION 25. 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, as amended from time to time. 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.

SECTION 26. PREVAILING WAGES AND DIR REGISTRATION FOR PUBLIC WORKS CONTRACTS.

26.1. This Project is not subject to prevailing wages and related requirements. CONSULTANT is not required to pay prevailing wages and meet related requirements under the California Labor Code and California Code of Regulations in the performance and implementation of the Project if the contract:

(1) is not a public works contract;
(2) is for a public works construction project of $25,000 or less, per California Labor Code Sections 1782(d)(1), 1725.5(f) and 1773.3(j); or
(3) is for a public works alteration, demolition, repair, or maintenance project of $15,000 or less, per California Labor Code Sections 1782(d)(1), 1725.5(f) and 1773.3(j).
26.1. This Project is subject to prevailing wages and related requirements as a “public works” under California Labor Code Sections 1720 et seq. and related regulations. CONSULTANT is required to pay general prevailing wages as defined in California Labor Code Section 1773.1 and Subchapter 3, Title 8 of the California Code of Regulations Section 16000 et seq., as amended from time to time. Pursuant to Labor Code Section 1773, the CITY 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 contract for this Project from the State of California Department of Industrial Relations (“DIR”). Copies of these rates may be obtained at the CITY’s Purchasing Department office. The general prevailing wage rates are also available at the DIR, Division of Labor Statistics and Research, web site (see e.g. http://www.dir.ca.gov/DLSR/PWD/index.htm) as amended from time to time. CONSULTANT shall post a copy of the general prevailing wage rates at all Project job sites and shall pay the adopted prevailing wage rates as a minimum. CONSULTANT shall comply with all applicable provisions of Division 2, Part 7, Chapter 1 of the California Labor Code (Labor Code Section 1720 et seq.), including but not limited to Sections 1725.5, 1771, 1771.1, 1771.4, 1773.2, 1774, 1775, 1776, 1777.5, 1782, 1810, 1813 and 1815, and all applicable implementing regulations, including but not limited to Subchapter 3, Title 8 of the California Code of Regulations Section 16000 et seq. (8 CCR Section 16000 et seq.), as amended from time to time. CONSULTANT shall comply with the requirements of Exhibit E, entitled “DIR REGISTRATION FOR PUBLIC WORKS CONTRACTS”, for any contract for public works construction, alteration, demolition, repair or maintenance, including but not limited to the obligations to register with, and furnish certified payroll records directly to, DIR.

SECTION 27. CLAIMS PROCEDURE FOR “9204 PUBLIC WORKS PROJECTS”. For purposes of this Section 27, 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. (Cal. Pub. Cont. Code § 9204.) Per California Public Contract Code Section 9204, for Public Works Projects, certain claims procedures shall apply, as set forth in Exhibit F, entitled “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 Exhibit F, entitled “Claims for Public Contract Code Section 9204 Public Works Projects”.

☐ OR

☐ This Project is not a 9204 Public Works Project.

SECTION 28. CONFIDENTIAL INFORMATION.

28.1. In the performance of this Agreement, CONSULTANT may have access to CITY’s Confidential Information (defined below). CONSULTANT will hold Confidential Information in strict confidence, not disclose it to any third party, and will use it only for the performance of its obligations to CITY under this Agreement and for no other purpose. CONSULTANT will maintain reasonable and appropriate administrative, technical and physical
safeguards to ensure the security, confidentiality and integrity of the Confidential Information. Notwithstanding the foregoing, CONSULTANT may disclose Confidential Information to its employees, agents and subcontractors, if any, to the extent they have a need to know in order to perform CONSULTANT’s obligations to CITY under this Agreement and for no other purpose, provided that the CONSULTANT informs them of, and requires them to follow, the confidentiality and security obligations of this Agreement.

28.2. “Confidential Information” means all data, information (including without limitation “Personal Information” about a California resident as defined in Civil Code Section 1798 et seq., as amended from time to time) and materials, in any form or media, tangible or intangible, provided or otherwise made available to CONSULTANT by CITY, directly or indirectly, pursuant to this Agreement. Confidential Information excludes information that CONSULTANT can show by appropriate documentation: (i) was publicly known at the time it was provided or has subsequently become publicly known other than by a breach of this Agreement; (ii) was rightfully in CONSULTANT’s possession free of any obligation of confidence prior to receipt of Confidential Information; (iii) is rightfully obtained by CONSULTANT from a third party without breach of any confidentiality obligation; (iv) is independently developed by employees of CONSULTANT without any use of or access to the Confidential Information; or (v) CONSULTANT has written consent to disclose signed by an authorized representative of CITY.

28.3. Notwithstanding the foregoing, CONSULTANT may disclose Confidential Information to the extent required by order of a court of competent jurisdiction or governmental body, provided that CONSULTANT will notify CITY in writing of such order immediately upon receipt and prior to any such disclosure (unless CONSULTANT is prohibited by law from doing so), to give CITY an opportunity to oppose or otherwise respond to such order.

28.4. CONSULTANT will notify City promptly upon learning of any breach in the security of its systems or unauthorized disclosure of, or access to, Confidential Information in its possession or control, and if such Confidential Information consists of Personal Information, CONSULTANT will provide information to CITY sufficient to meet the notice requirements of Civil Code Section 1798 et seq., as applicable, as amended from time to time.

28.5. Prior to or upon termination or expiration of this Agreement, CONSULTANT will honor any request from the CITY to return or securely destroy all copies of Confidential Information. All Confidential Information is and will remain the property of the CITY and nothing contained in this Agreement grants or confers any rights to such Confidential Information on CONSULTANT.

28.6. If selected in Section 30 (Exhibits), this Agreement is also subject to the terms and conditions of the Information Privacy Policy and Cybersecurity Terms and Conditions.

SECTION 29. MISCELLANEOUS PROVISIONS.

29.1. This Agreement will be governed by California law, without regard to its conflict of law provisions.

29.2. In the event that an action is brought, the parties agree that trial of such
action will be vested exclusively in the state courts of California in the County of Santa Clara,
State of California.

29.3. The prevailing party in any action brought to enforce the provisions of this
Agreement may recover its reasonable costs and attorneys’ fees expended in connection with that
action. The prevailing party shall be entitled to recover an amount equal to the fair market value
of legal services provided by attorneys employed by it as well as any attorneys’ fees paid to third
parties.

29.4. This Agreement, including all exhibits, constitutes the entire and integrated
agreement between the parties with respect to the subject matter of this Agreement, and supersedes
all prior agreements, negotiations, representations, statements and undertakings, either oral or
written. This Agreement may be amended only by a written instrument, which is signed by the
authorized representatives of the parties and approved as required under Palo Alto Municipal
Code, as amended from time to time.

29.5. If a court of competent jurisdiction finds or rules that any provision of this
Agreement is void or unenforceable, the unaffected provisions of this Agreement will remain in
full force and effect.

29.6. In the event of a conflict between the terms of this Agreement and the
exhibits hereto (per Section 30) or CONSULTANT’s proposal (if any), the Agreement shall
control. In the event of a conflict between the exhibits hereto and CONSULTANT’s proposal (if
any), the exhibits shall control.

29.7. The provisions of all checked boxes in this Agreement shall apply to this
Agreement; the provisions of any unchecked boxes shall not apply to this Agreement.

29.8. All section headings contained in this Agreement are for convenience and
reference only and are not intended to define or limit the scope of any provision of this Agreement.

29.9. This Agreement may be signed in multiple counterparts, which, when
executed by the authorized representatives of the parties, shall together constitute a single binding
agreement.

SECTION 30. EXHIBITS. Each of the following exhibits, if the check box for such exhibit is
selected below, is hereby attached and incorporated into this Agreement by reference as though
fully set forth herein:

☐ EXHIBIT A: SCOPE OF SERVICES
☐ EXHIBIT A-1 PROFESSIONAL SERVICES TASK ORDER
☐ EXHIBIT B: SCHEDULE OF PERFORMANCE
☐ EXHIBIT C: COMPENSATION
☐ EXHIBIT C-1: SCHEDULE OF RATES
☐ EXHIBIT D: INSURANCE REQUIREMENTS

THIS AGREEMENT IS NOT COMPLETE UNLESS ALL SELECTED EXHIBITS
ARE ATTACHED.
IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement as of the date first above written.

CITY OF PALO ALTO

____________________________
City Manager

APPROVED AS TO FORM:

____________________________
City Attorney or Designee

RAFTELIS FINANCIAL CONSULTANTS, INC.

Officer 1

By: _______________________________

Name: Sudhir Pardiwala, P.E.

Title: Executive Vice President

Officer 2 (Required for Corp. or LLC)

By: _______________________________

Name: Matt Jackson, Director of Financial Operations

Title: Corporate Secretary
EXHIBIT A
SCOPE OF SERVICES

CONSULTANT shall provide the Services detailed in this Exhibit A, entitled “SCOPE OF SERVICES”.

PURPOSE

CONSULTANT shall provide on-call, as-needed Task-Order based rate design and financial consulting to its Electric, Gas, Water and Wastewater Collection Utilities, primarily focusing on cost of service allocation, rate design, and financial planning and forecasting, for a five-year period. The City may utilize multiple pre-qualified consultants, to respond with proposals to the City’s Task Order description for individual projects (see “TASK ORDER PROPOSAL AND SELECTION PROCESS” section, below). Utility staff performs annual financial forecasts in-house, but periodically requires consulting services to design and update cost of service studies as part of an evaluation of the adequacy and fairness of its rate structures. Cost of service studies for all utilities are evaluated and updated annually or as needed but undergo a deeper consultant review for adequacy every three to seven years, or as industry changes warrant.

The City anticipates a need for continuing rate analysis and adjustments to its cost of service models resulting from policy and operational evaluations the City is currently undertaking, as well as developing industry trends. The policy and operational evaluations include, but are not limited to, a smart grid planning and implementation efforts, billing system transitions and updates, as well as revisions to the City’s sustainability plan. Industry trends include a movement toward time variant pricing among California utilities, evolving case law related to Propositions 218 and 26, higher electric vehicle penetration, and the continuing development of new customer-side technologies such as storage, microgrids, and grid-interactive appliances. Many of these plans and trends are likely to have rate impacts, either in the short term or in the long term. The City is also considering climate action goals that could have significant impacts to utility services. The City is seeking consultant(s) who can provide advisory services and analysis on these topics and make adjustments to its cost of service models when necessary.

DELIVERABLES

Consultant’s deliverables will be determined on a task-by-task basis. Deliverables may include one-time written reports, periodic written reports and updates, oral presentations, recommendations and analysis. As specified more clearly on the applicable Task Order (in form of Exhibit A-1 of the Professional Services Agreement), all reports and written material must be provided to and approved by Resource Management Division (RMD) staff prior to delivery to outside agencies.
TYPES OF SERVICES:

The Consultant(s) may be asked to perform Services for the Utilities Department on an on-call, as-needed Task Order basis. The term of the contract is intended to be one year, with up to four additional one-year extensions upon mutual agreement of Consultant and City. Projects which the City may request Services for include:

1) **Financial Planning and Rate Design Consulting** - Provide City with technical support related to financial planning and rate design issues in the Electric, Gas, Water and/or Wastewater Collection utilities including:
   
a) Cost of service (COS) models;
   
a. Major and/or minor updates to existing COS models;
   
b. Building new COS models;
   
b) Building and/or refinement of retail rate models and/or structures;
   
c) Design rate schedules to serve new customer types;
   
d) Assistance with designing pilot rate programs;
   
e) Performing connection fee studies;
   
f) Marginal cost studies;
   
g) Financial planning analysis;
   
i) Review and analysis of existing financial plans;
   
ii) Building and/or refinement of new financial plans;
   
iii) Aligning financial plan models with City’s budget and comprehensive annual financial report (CAFR) documents
   
h) Load research studies;
   
i) Weather correction analysis
   
j) Cash vs Utility basis accounting

2) **Utility Financial and Management Analysis** - Assist City by providing advice, research, analysis, and support related to utility operational or strategic planning. Some examples of such projects are:

   a) Financial planning, scenario development, and impact analysis of the implementation of electrification initiatives in Palo Alto, including assessing impacts of electrification and fuel switching on future loads and customer allocations;
b) Financial planning, rate design, and cost of service analysis related to greenhouse gas regulation compliance including, but not limited to, Cap and Trade and Low Carbon Fuel Standard (LCFS);

c) Assist with the design of cost allocation strategies and business practices for use of revenue from defined revenue streams (e.g. Public Benefits funds, Cap and Trade, LCFS, etc.);

d) Assist in the development of new utility structures and divisions (such as a new recycled water division);

e) Providing general advice, research, or analysis related to ratemaking, financial planning, or financial impacts of long-term system planning;

f) Writing reports related to ratemaking, financial planning, or financial impacts of long term system planning;

g) Presenting to policy makers, stakeholders, internal staff, or others regarding ratemaking, financial planning, or financial impacts of long term system planning

The successful vendor (or vendors) must complete a non-disclosure agreement completed in order to receive customer information which may be needed to complete any response to this RFP.

TASK ORDER PROPOSAL AND CONSULTANT SELECTION PROCESS

The CITY intends to issue Task Orders to the pool of pre-qualified rate design and financial consultants, which will include specific and individual Scopes of Services for each project. Pre-qualified consultants may respond with proposals to the CITY’s Task Order for individual projects identified on each Task Order.

For each response to a Task Order proposal, the CONSULTANT shall submit the following within three weeks, for CITY’s review and evaluation of best value for the particular project:

- CONSULTANT firm’s experience with the work related to the Task(s)
- Preliminary schedule
- Proposed additions, subtractions or modifications to the Scope of Services described by CITY for any specific tasks
- Not to Exceed fee

The City may negotiate each Scope of Services and price with one or more pre-qualified Consultants prior to CITY’s Project Manager drafting final Task Order(s) for requisite approvals under any Professional Services Agreement.
EXHIBIT A-1
PROFESSIONAL SERVICES TASK ORDER

CONSULTANT shall perform the Services detailed below in accordance with all the terms and conditions of the Agreement referenced in Item 1A below. All exhibits referenced in Item 8 are incorporated into this Task Order by this reference. CONSULTANT shall furnish the necessary facilities, professional, technical and supporting personnel required by this Task Order as described below.

CONTRACT NO.
OR PURCHASE ORDER REQUISITION NO. (AS APPLICABLE)

1A. MASTER AGREEMENT NO. (MAY BE SAME AS CONTRACT / P.O. NO. ABOVE):
1B. TASK ORDER NO.:
2. CONSULTANT NAME:
3. PERIOD OF PERFORMANCE: START: COMPLETION:
4. TOTAL TASK ORDER PRICE: $______________________________
   BALANCE REMAINING IN MASTER AGREEMENT/CONTRACT $__________________
5. BUDGET CODE_________________________
   COST CENTER_________________________
   COST ELEMENT_________________________
   WBS/CIP______________________________
   PHASE______________________________
6. CITY PROJECT MANAGER’S NAME & DEPARTMENT:
7. DESCRIPTION OF SCOPE OF SERVICES (Attachment A)
   MUST INCLUDE:
   ▪ SERVICES AND DELIVERABLES TO BE PROVIDED
   ▪ SCHEDULE OF PERFORMANCE
   ▪ MAXIMUM COMPENSATION AMOUNT AND RATE SCHEDULE (as applicable)
   ▪ REIMBURSABLE EXPENSES, if any (with “not to exceed” amount)
8. ATTACHMENTS: A: Task Order Scope of Services B (if any): ____________________________

I hereby authorize the performance of the work described in this Task Order.

APPROVED:
CITY OF PALO ALTO

BY: ____________________________
Name __________________________
Title __________________________
Date __________________________

I hereby acknowledge receipt and acceptance of this Task Order and warrant that I have authority to sign on behalf of Consultant.

APPROVED:
COMPANY NAME: __________________________

BY: ____________________________
Name __________________________
Title __________________________
Date __________________________
EXHIBIT B
SCHEDULE OF PERFORMANCE

☒ Optional Schedule of Performance Provision for On-Call or Additional Services Agreements.
(This provision only applies if checked and only applies to on-call agreements per Section 1 or agreements with Additional Services per Section 4.)

The schedule of performance shall be as provided in the approved Task Order, as detailed in Section 1 (Scope of Services) in the case of on-call Services, or as detailed in Section 4 in the case of Additional Services, provided in all cases that the schedule of performance shall fall within the term as provided in Section 2 (Term) of this Agreement.
EXHIBIT C
COMPENSATION

CITY agrees to compensate CONSULTANT for on-call, as-needed, time-limited project support services performed in accordance with the terms and conditions of this Agreement, and as set forth in a specific Task Order budget schedule. Compensation shall be calculated based on the rate schedule attached as Exhibit C-1, if applicable, up to the not to exceed budget amount for each task set forth in a specific Task Order. Each Task Order shall contain a maximum compensation amount, specified by CITY, based on a negotiated lump sum.

CITY’s Project Manager may approve in writing the transfer of budget amounts between any of the tasks or categories within a specific Task Order, provided that the total compensation for the Services, including any specified reimbursable expenses, and the total compensation for Additional Services (if any, per Section 4 of the Agreement) do not exceed the amounts set forth in Section 4 of this Agreement.

CONSULTANT agrees to complete all Services, any specified reimbursable expenses, and Additional Services (if any, per Section 4), within this/these amount(s). Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth in this Agreement shall be at no cost to the CITY.

REIMBURSABLE EXPENSES

CONSULTANT’S ordinary business expenses, such as administrative, overhead, administrative support time/overtime, information systems, software and hardware, photocopying, telecommunications (telephone, internet), in-house printing, insurance and other ordinary business expenses, are included within the scope of payment for Services and are not reimbursable expenses hereunder.

Reimbursable expenses, if any are specified as reimbursable under this section, will be reimbursed at actual cost. The expenses (by type, e.g. travel) for which CONSULTANT will be reimbursed are: NONE up to the not-to-exceed amount of $0.00.

A. Travel outside the San Francisco Bay Area, including transportation and meals, if specified as reimbursable, will be reimbursed at actual cost subject to the City of Palo Alto’s policy for reimbursement of travel and meal expenses.

B. Long distance telephone service charges, cellular phone service charges, facsimile transmission and postage charges, if specified as reimbursable, will be reimbursed at actual cost.

All requests for reimbursement of expenses, if any are specified as reimbursable under this section, shall be accompanied by appropriate backup documentation and information.
EXHIBIT C-1
SCHEDULE OF RATES

The applicable rate schedule by which CONSULTANT will be paid for Services rendered under this Agreement and its Task Order(s), if any, is set forth below as Exhibit “C-1”, entitled “SCHEDULE OF RATES”. The fee schedules attached hereto in Exhibit C-1 shall apply during the first two years of the term of the Agreement. Thereafter, CONTRACTOR’s compensation rates shall be adjusted annually effective on the commencement of the 3rd year, as follows: Each unit price, hourly rates, and fee, as set forth the attached fee schedule, 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), published most immediately preceding the commencement of the applicable contract year, compared with the CPI published for the prior year. Notwithstanding the foregoing, in no event shall CONTRACTOR’s compensation rates be increased by an amount exceeding five percent of the rates effective during the immediately preceding contract year. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum compensation as set forth herein shall be at no cost to the CITY.

CONSULTANT’s schedule of rates is as follows:
### CHAPTER 8

## Proposal Costs Sheet and Rates

The following table provides a breakdown of our proposed fee for this project based on an estimated scope of services. This table includes the estimated level of effort required for completing each task and the hourly billing rates for our project team members. Expenses include costs associated with travel and a $10 per hour technology charge covering computers, server, telephones, postage, etc. It should be noted, since the City of Palo Alto Utilities Department’s (City) Request for Proposals (RFP) indicates it will bid out each scope of work when needed, the project approach may change based on the City’s specific scope of services requested at a future date. For the purposes of this cost proposal, we have provided a typical scope for a water and sewer rate and financial planning study. However, we anticipate the approach will be customized to address the City’s specific goals and objectives resulting from its policy and operational evaluations.

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<td>Total Not to Exceed (includes travel - 2 trips)</td>
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<td>$31,490</td>
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**TOTAL NOT TO EXCEED (TASKS 1-8)** $110,015
# Hourly Billing Rates

Project team hours and expenses will be billed on the same invoice. Expenses such as postage, duplicating/printing and travel will be billed at cost. Additional services outside the agreed upon scope of work will be billed on a time and materials basis. Rafelis’ billing rates can be found below.

<table>
<thead>
<tr>
<th>POSITION</th>
<th>HOURLY BILLING RATE**</th>
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<tr>
<td>Chair</td>
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<td>Chief Executive Officer/President</td>
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<td>Executive Vice President</td>
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<td>Vice President/Principal Consultant</td>
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<td>Director of Governmental Services</td>
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<td>Senior Manager</td>
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<td>Director of Florida Operations</td>
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<td>Technology Charge*</td>
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*Technology/Communications Charge: This is an hourly fee charged monthly for each hour worked on the project to recover telephone, facsimile, computer, postage/overnight delivery, conference calls, electronic/computer webinars, photocopies, etc.

**For services related to the preparation for and participation in deposition and trials/hearings, the standard billing rates listed above will be increased by an amount up to 50 percent.
EXHIBIT D
INSURANCE REQUIREMENTS

CONSULTANTS 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 HEREIN.

<table>
<thead>
<tr>
<th>REQUIRED</th>
<th>TYPE OF COVERAGE</th>
<th>REQUIREMENT</th>
<th>MINIMUM LIMITS</th>
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<td>YES</td>
<td>EMPLOYER’S LIABILITY</td>
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<tr>
<td>YES</td>
<td>GENERAL LIABILITY, INCLUDING PERSONAL INJURY, BROAD FORM PROPERTY DAMAGE BLANKET CONTRACTUAL, AND FIRE LEGAL LIABILITY</td>
<td>BODILY INJURY</td>
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<td>PROPERTY DAMAGE</td>
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<td>PROPERTY DAMAGE</td>
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<td>BODILY INJURY AND PROPERTY DAMAGE, COMBINED</td>
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<td>YES</td>
<td>PROFESSIONAL LIABILITY, INCLUDING, ERRORS AND OMISSIONS, MALPRACTICE (WHEN APPLICABLE), AND NEGLIGENT PERFORMANCE</td>
<td>ALL DAMAGES</td>
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<tr>
<td>YES</td>
<td>THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED</td>
<td>CONSULTANT, 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 CONSULTANT 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>
</tr>
</tbody>
</table>

I. INSURANCE COVERAGE MUST INCLUDE:
   A. A CONTRACTUAL LIABILITY ENDORSEMENT PROVIDING INSURANCE COVERAGE FOR CONSULTANT’S AGREEMENT TO INDEMNIFY CITY.

II. THE CONSULTANT 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 CONSULTANT 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 CONSULTANT SHALL PROVIDE CITY AT LEAST A TEN (10) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

EVIDENCE OF INSURANCE AND OTHER RELATED NOTICES ARE REQUIRED TO BE FILED 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
EXECUTIVE SUMMARY
With the completion of the XCAP review of rail grade separation options and presentation to the City Council, the City Council directed staff at the April 26, 2021 Council meeting to come back with a detailed review of the design alternatives still under consideration at each of these rail crossings and to then provide direction on additional studies/next phase of the project.

The City Council’s current discussion follows more than 18 months of engagement and deliberation by the Expanded Community Advisory Panel (XCAP). While many divergent issues were discussed, the XCAP ultimately recommended for closure of Churchill Avenue with six of nine members in favor of Churchill Avenue closure at this grade crossing. Option 2 with pedestrian/bike crossing that runs down the middle of Churchill Avenue east of Alma, which then proceeds under Alma and railroad tracks was the preferred option voted by seven of the nine members. In addition, XCAP recommended closure of Churchill Avenue to consider additional mitigations and studies.

On August 23, 2021, the City Council reviewed the details on the design alternatives under consideration for Meadow Drive and Charleston Road railroad crossings (CMR 13435) and eliminated the viaduct option for Meadow Drive and Charleston Road from further consideration. At this meeting, Council also provided direction on additional studies to be pursued for Meadow and Charleston alternatives under consideration that may provide greater information in narrowing these alternatives further.
This staff report provides detailed information on Churchill Avenue design alternatives and seeks Council direction in pursuing additional studies that could assist further in selecting preferred alternative(s).

The Discussion section of this staff report contains:

- Detailed Review of Charleston Road and Meadow Drive Grade Separation Alternatives
  - Layout (Vehicular, Bike, Pedestrians) and Right of Way
  - Traffic Circulation
  - Noise & Vibration Analysis
  - Outreach
  - Construction & Engineering Challenges
  - Project Cost
- Additional Studies, as described below
- Next Steps

The additional studies listed in this report for Churchill Avenue are identical to those presented for Meadow Drive and Charleston Road Crossing as these studies have a similar scope of work and there are cost efficiencies due to economy of scale. However, staff is seeking Council guidance on the scope of additional studies that may be relevant to Churchill Avenue crossings for consideration of the final alternative(s) to design and construct grade separation. Below is a brief list of issues of interest previously identified by the City Council Members, the XCAP, and community for consideration. Further details on each of these can be found under “Additional Studies” in the report.

It should be noted that many of these studies are typically conducted later in a construction project development process and focused on a primary rather than multiple alternatives. This is reflected in the associated costs. In addition, conclusions from these studies must be considered preliminary, since responsible agencies such as Caltrain will provide limited guidance and feedback at the current conceptual design stage. Nonetheless, to the extent these studies provide community stakeholders greater confidence in decision-making, the costs involved represent a small percentage of the ultimate costs of grade separation construction.

- **Track Review and Caltrain Coordination (estimated $90,000-$110,000):** Palo Alto has been identified in the Caltrain Business Plan as a potential location for high-growth capacity improvements, including 4-tracks. To date, alternatives developed for the Rail Program have only been evaluated for 2-tracks. Work to further define the ability of grade separation alternatives to accommodate four tracks includes: Gather Data from Caltrain, Evaluate Alternatives, Meet with Caltrain, Prepare memorandum report.

- **Traffic Study Update (2040) (estimated $45,000-$55,000):** Update to traffic analysis to reflect a future forecast year of 2040 rather than the year 2030 forecasts will require the
following specific tasks: Work to Model Land Use, Model Forecasts, Traffic Calculations, Documentation.

- **Design Refinement of Underpass Alternatives (estimated $125,000-$150,000):** Refinement of the Underpass Alternative at Meadow and Charleston requires additional iteration of review to ensure that input from the PABAC and school committees should be incorporated to further refine this alternative. As such staff requested the Consultant for their support to develop the estimated costs and scope as follows: Enhance Alternatives, Update Exhibits, Update Renderings, Update Cost Estimates, Update Miscellaneous Items.


- **Box Jacking System/Geotechnical Investigation & Feasibility Study (estimated $350,000-$600,000):** Data Collection and Review – Groundwater and Geotechnical, Construction Methodology Evaluation, Construction Phasing / Sequencing, Cost Estimate, 3D Animation, Memorandum Report.

- **Shadow Analysis (Light Plane Review) (estimated $20,000-$25,000):** 3D Model Development, Shadow Study Analysis, Study Document Production and Final Report.

- **Additional Noise Study (estimated $55,000-$65,000):** Expand Study Area/Measurements, Expand Analysis for Future Growth, Analyze Structural Noise/Vibration, Update Noise Study Report.

- **Storm Drainage Infrastructure (estimated $200,000–$250,000):** Evaluate Trench Storm Drain Alternatives, A rough order-of-magnitude (ROM) cost will be developed for both options. Evaluate Underpass Storm Drain Alternatives, Prepare Memorandum Report.

- **Additional Outreach (estimated $15,000-$20,000):** Conduct Meetings with Additional Stakeholders, Prepare Meeting Notes.

- **Urban Designer (estimated $100,000-$125,000):** Urban Design / Public Realm Opportunity Mapping opportunities for public realm improvements for each of the three (3) alternatives and constraints urban design plan diagram will be created for each of the three alternatives, Urban Design / Public Realm Design Enhancements conceptual site plan for each alternative will be updated with the proposed public realm design features, and Meetings.

- **Conceptual Design for Ped/Bike Undercrossing at Seale And Loma Verde (estimated $80,000-$100,000):** Conceptual Layouts, Cost Estimates, 3D Renderings, and Miscellaneous Public Outreach Materials.

- **Sustainability (estimated $50,000-$80,000):** Sustainability Strategy Plan strategy to identify major categories where sustainable materials and practices can be incorporated into the final design of alternatives, and Bike/Ped Usage improvement in relation to the grade separation alternatives.
Note: The estimated scope and fee listed above for various studies is inclusive of work anticipated for all three crossings (Churchill Avenue, Meadow Drive, and Charleston Road). Most of these studies can be performed independently for each of the alternatives at these crossings. However, there is a general economy of scale in performing similar work for a greater number of alternatives and crossings. In addition, some of the studies such as Noise Study update and Traffic Study Update for 2040, if conducted will be tied to update models for all crossings concurrently. Box Jacking evaluation also us

BACKGROUND
With the proposed California High Speed Rail (CAHSR) using the Caltrain corridor and the planned electrification of the Caltrain corridor that will increase the frequency of trains along this corridor, the delays to the at-grade crossings are expected to increase significantly. Therefore, City initiated the plan to consider grade separation at all four of the existing at-grade crossings in Palo Alto. For the past decade, City engaged the public to help develop and evaluate potential grade separation options at each of Palo Alto’s four Caltrain rail crossings.

Since 2017, the City’s focus has been mainly on the three existing grade crossings of Churchill Avenue, Meadow Drive, and Charleston Road. The crossing at Palo Alto Avenue was separated, to be integrated with the Downtown Coordinated Area plan. The planning process for the development of alternatives at the three crossings of Churchill Avenue, Meadow Drive, and Charleston Road was led by staff and consultants with public input coming through community meetings. In 2018, City Council created a Citizen Advisory Panel (CAP) for advising staff and consultants on developing alternatives and improving community outreach and communications efforts. Later in 2019, City Council formed an Expanded Community Advisory Panel (XCAP) for the evaluation of the Connecting Palo Alto railroad grade separation at these three crossings (Churchill Avenue, Meadow Drive, and Charleston Road) along the Caltrain corridor and to achieve greater community input for selection of the preferred alternative at these three crossings.

The XCAP group met diligently over eighteen (18) months and completed the review of a total of nine (9) alternatives and prepared a Final Report providing their recommendations to the Council on March 23, 2021 (CMR 11797). At this study session, Council received the final XCAP report and discussed major recommendations and findings from the report. Considering the environmental challenges and the estimated costs for the South Palo Alto Tunnel alternatives, the XCAP unanimously recommended that the Council remove the tunnel alternatives from further consideration.

After the review of the XCAP report and considering the XCAP recommendation, the City Council on April 26, 2021, removed the two tunnel alternatives 1) South Palo Alto Tunnel (Passenger and Freight) 2) South Palo Alto Tunnel (With At-Grade Freight) from further consideration for grade separation.
For Meadow Avenue and Charleston Road crossings, City Council on August 23, 2021 discussed the alternatives in detail and directed the following actions:

- Eliminate viaduct alternative.
- Establish a policy to engage with Caltrain on 4-tracks by City Council, Staff, and LPMG representatives.
- Conduct preliminary geotechnical studies.
- Design refinements of Underpass alternatives to address current shortcomings including the size of the roundabout, bike/ped connections, and right of way
- Continue work on the bike plan in parallel with consideration of construction time and interaction with grade crossing plans;
- Obtain the cost for a second cost opinion of the Trench option, in particular to a company with experience of trenches, underground or subterranean methods in parallel to the geotechnical studies.

The current six (6) alternatives in consideration at these three crossings are as follows:

**Churchill Avenue**
- Churchill Avenue Closure with Mitigation - Option 1 & 2
- Churchill Avenue Viaduct
- Churchill Partial Underpass

**Meadow Drive and Charleston Road**
- Meadow Charleston Trench
- Meadow Charleston Hybrid
- Meadow Charleston Underpass

**DISCUSSION**
This agenda item presents a detailed review of the alternatives in considerations at Churchill Avenue Crossings. Staff seeks City Council direction on whether to further narrow alternatives by eliminating any of the current alternatives under consideration and any additional studies desired for the selection of a preferred alternative.

**Layout (Vehicular, Bike, Pedestrians) & Right of Way**
Below is a summary of the layout and right of way that would result in each of the four alternatives. Further explanation and details can be found below this summary table organized by alternative (trench, viaduct, hybrid, and underpass).
### TABLE 1: Summary of Layout & Right of Way

<table>
<thead>
<tr>
<th>Vehicular</th>
<th>Closure with Mitigation (option 1)</th>
<th>Closure with Mitigation (option 2)</th>
<th>Viaduct</th>
<th>Partial Underpass</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Closed to through Traffic at tracks. The traffic will be routed to other streets.</td>
<td>Closed to through Traffic at tracks. The traffic will be routed to other streets.</td>
<td>No change to traffic movements. Same as existing</td>
<td>WBT, EBT, SBL, and WBL are not permitted at Churchill and Alma. Intersections on Alma Street at Kellogg Ave and Coolidge Ave will be limited to right-in and right-out only</td>
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<tr>
<td>Pedestrian</td>
<td>The pedestrians will use the traffic signal at Alma to cross Churchill Avenue and use ramps that will run parallel to RR tracks and crossing under tracks north of Churchill Avenue</td>
<td>The pedestrians will use an undercrossing that will be crossing both Alma Street and RR crossing. This crossing will be in the middle of Churchill Avenue.</td>
<td>The pedestrian facilities will be provided along the roadway and cross under the viaduct on existing grade.</td>
<td>The pedestrian and bike crossing will be provided at Kellogg Avenue. No pedestrian crossing can be made at Churchill Avenue</td>
</tr>
<tr>
<td>Bike</td>
<td>• The bicycles will use traffic signals at Alma to cross Churchill Avenue and use ramps that will run parallel to RR tracks and crossing under tracks north of Churchill Avenue. • Ninety (90) degrees bends to provide minimum ramp slopes meeting ADA requirements.</td>
<td>The bicycles will use the undercrossing that will be crossing both Alma Street and RR crossing. This crossing will be in the middle of Churchill Avenue.</td>
<td>The bicycle facilities will be provided along the roadway and cross under the viaduct on existing grade.</td>
<td>• The pedestrian and bike crossing will be provided at Kellogg Avenue. No pedestrian crossing can be made at Churchill Avenue • Ninety (90) degrees bends to provide minimum ramp slopes meeting ADA requirements.</td>
</tr>
<tr>
<td>Other</td>
<td>ROW impacts for mitigations were not identified, however may likely require some additional ROW from fronting properties.</td>
<td>ROW impacts for mitigations were not identified, however may likely require some additional ROW from fronting properties.</td>
<td>Churchill Avenue will require widening</td>
<td>Will require partial property acquisitions.</td>
</tr>
</tbody>
</table>
Closure with Mitigation

For the Mitigation closure alternative, the railroad tracks will remain at their existing location and at existing elevation. All existing traffic movements that occur by crossing over the railroad tracks will be prohibited under this alternative. Churchill Avenue becomes a T-intersection with Alma Street on the east side and ends at Mariposa Avenue on the west side. The vehicular movements for eastbound (through, left, right) and westbound through movement will be prohibited at this intersection with this alternative. These movements will be directed to other roadways and therefore anticipated to affect other intersections, for which a traffic study was conducted. The Traffic Circulation section of this report provides details on impacts. A pedestrian/bike only undercrossing will accommodate pedestrian and bike traffic in this alternative. Two options are proposed with this alternative based on the configuration and layout of pedestrian/bike undercrossing.

Option 1: In this alternative the pedestrian and bike traffic cross the intersection of Alma Street at the signalized intersection. The pedestrian bike crossing then runs parallel to the railroad tracks and crosses under the railroad tracks on the north side of Churchill Avenue, then ramps up on the other side of the railroad tracks. The pedestrian/bike ramps on both sides of the tracks for the underpass at Churchill Avenue will require surface encroachment inside Caltrain’s right-of-way.

Option 2: In this alternative option the pedestrian and bike undercrossing begins to ramp down on the west side of Churchill Avenue (within the roadway) and uses undercrossing to crosses under both the railroad tracks and Alma Street. It then ramps up on the other side of the railroad tracks to meet at grade and connects to pedestrian and bike facilities along Churchill Avenue

Ramps and stairs in varying configurations will provide access to the undercrossing for pedestrians and cyclists. However, the grade on the pedestrian/bike ramp will not exceed 8% with 5-foot landings. The pedestrian/bike ramp is planned to be 8-10 feet in width.

Partial ROW take may be needed for the intersections identified as part of the mitigations. These impacts are not identified at this time.

Viaduct

For the viaduct alternative, the railroad tracks will be elevated on a structure over Churchill Avenue. The new electrified railroad tracks will be built at the existing railroad alignment and will begin rising north of Homer Avenue, remain elevated over Churchill Avenue, and return to the existing elevation before California Avenue Station. The Stanford Game Day station will be eliminated. The maximum railroad grade for this alternative will be 1.6% which will also require a Caltrain design exception. The railroad tracks will be approximately 20 feet above the existing street at Churchill Avenue Crossing.
The Churchill Avenue will remain at its existing grade and have a similar configuration to what exists today, with the addition of Class II buffered bike lanes. This addition will require expanding the width of the road to maintain bike lanes through the underpass of the railroad and to accommodate the new column supporting the railroad structure.

**Partial Underpass**
The partial underpass alternative retains the Caltrain tracks at the current grade. The Caltrain tracks will be supported on a new rail bridge spanning across a lowered Churchill Avenue at approximately its current location. This alternative will grade separate Churchill Avenue, however, as this is a partial underpass, not all the traffic movements will be feasible with this grade separation alternative. The through traffic movements in both eastbound and westbound directions, the westbound left turn, and the southbound left turn at this intersection will no longer be permitted. In addition, certain side streets intersecting Alma street will be limited to right-in and right-out movements. The movements of traffic along these approaches are described below.

**Eastbound Traffic:** Traffic on Churchill Avenue from the Paly Road/Castilleja Avenue intersection will descend and pass under the railroad and terminate at a lowered, signal-controlled, forming a T-intersection at Alma Street where vehicles can make a left turn onto northbound Alma Street or a right turn onto southbound Alma Street. These lanes will then ascend and return to grade along Alma Street.

**Westbound Traffic:** Traffic on Churchill Avenue from Emerson Street will terminate at Alma Street. Right turns only (onto northbound Alma Street) will be permitted. Similarly, westbound traffic on Kellogg Avenue and Coleridge Avenue approaching Alma Street will be permitted to make right turns only onto northbound Alma Street. Traffic on northbound Alma Street will be split near Coleridge Avenue.
Northbound Traffic: The vehicles in the northbound lane will bear right to continue going north and will remain at grade on existing Alma Street. This traffic will be permitted to make right turns onto all connecting streets (Coleridge Avenue, Churchill Avenue, Kellogg Avenue, etc.) approaching Emerson Street. Vehicles bearing left to make a northbound left turn will descend to the T-intersection with Churchill Avenue and be permitted to make left turns (under the railroad) onto westbound Churchill Avenue approaching Paly Road/Castilleja Avenue and El Camino Real.

Southbound Traffic: Traffic on southbound Alma Street will operate as it does today, however it will descend to meet at the T intersection formed by a partial underpass and then come back up to meet at grade on Alma Street. Due to grade differential, the southbound left turns onto Churchill Avenue cannot be permitted at this location. In addition, left turns on southbound Alma Street onto Kellogg Avenue and Coleridge Avenue will also not be permitted.

With this alternative, the pedestrian and bike crossing will be provided at Kellogg Avenue. From westbound Kellogg Avenue, a 10-foot wide path will descend at the center of the road, at which point widens to 20 feet and crosses under both Alma Street and the Caltrain tracks and conforms at the Embarcadero Bike Path adjacent to Palo Alto High School. The pedestrian/bike ramp on each side is approximately 220 to 250 feet long with width ranging from 10 to 20 feet, and a maximum grade of 8% with 5-foot landings spaced 35 feet apart.

Multiple partial acquisitions of residential properties will be required to accommodate this alternative. In addition, modifications to several driveways on Alma Street will also be needed with this alternative. The southbound lane/shoulder on Alma Street and the pedestrian/bike ramps on the west side of the tracks for the underpass at Kellogg Avenue will also require surface encroachment inside Caltrain’s right-of-way.

Traffic Circulation
To review the traffic circulation, a traffic study was conducted by Hexagon Traffic consultants. The study evaluated the existing traffic conditions based on the traffic counts conducted in October 2019. The future traffic volumes were obtained from the traffic forecasts based on the 2016 Palo Alto Comprehensive Plan for future (Year 2030) conditions. The study analyzed traffic operations during the weekday AM (7-9) and PM (4-6) peak commute hours. The traffic study focuses on vehicular traffic operations; however, bicycle and pedestrian circulation have been accounted for in the traffic analysis.

Closure with Mitigation
As described above, for the Churchill closure alternative, all existing traffic movements that occur by crossing over the railroad tracks will be prohibited under this alternative. Therefore, a Traffic Study was conducted to evaluate the impacts of the closure of Churchill Avenue across
the railroad tracks. With the closure of Churchill Avenue west of the railroad tracks, Churchill Avenue would no longer provide an east-west connection for vehicles across Alma Street.

The study indicated that the intersection of Alma and Churchill Avenue would operate at an acceptable LOS C during both the AM and PM peak hours with existing and future traffic volumes with the Churchill Closure Alternative with Mitigations (Table 2 & 3).

Table 2: Alma and Churchill Grade Separation Alternatives – Existing Traffic Volumes

<table>
<thead>
<tr>
<th>Traffic Operations (Existing Traffic Volumes)</th>
<th>No Improvements (No Electrification)</th>
<th>Churchill Closure</th>
<th>Viaduct</th>
<th>Partial Underpass</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alma Street &amp; Churchill Ave</td>
<td>AM Delay (secs)</td>
<td>PM Delay (secs)</td>
<td>AM LOS</td>
<td>PM LOS</td>
</tr>
<tr>
<td></td>
<td>88.9</td>
<td>66.67</td>
<td>E</td>
<td>23.58</td>
</tr>
<tr>
<td>Notes:</td>
<td>1. All turning movements permitted. Analysis assumes 8 trains per hour under existing conditions. Traffic analysis was conducted using PTV Vissim software.</td>
<td>2. The following turning movements would not be possible: left-turn, right-turn and through traffic from eastbound Churchill, through traffic from westbound Churchill, northbound left-turns and southbound right-turn from Alma. Traffic analysis was conducted using PTV Vissim software.</td>
<td>3. All turning movements permitted. Traffic analysis was conducted using PTV Vissim software.</td>
<td>4. The following turning movements would not be possible: east-bound and westbound through traffic on Churchill Avenue across Alma Street, left-turn from westbound Churchill, and left-turn from southbound Alma. Traffic analysis was conducted using SimTraffic.</td>
</tr>
</tbody>
</table>

Table 3: Alma and Churchill Grade Separation Alternatives – Future Traffic Volumes

<table>
<thead>
<tr>
<th>Traffic Operations (Future Traffic Volumes)</th>
<th>No Improvements (No Electrification)</th>
<th>No Improvements (With Electrification)</th>
<th>Churchill Closure</th>
<th>Viaduct</th>
<th>Partial Underpass</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alma Street &amp; Churchill Ave</td>
<td>AM Delay (secs)</td>
<td>PM Delay (secs)</td>
<td>AM Delay (secs)</td>
<td>PM Delay (secs)</td>
<td>AM Delay (secs)</td>
</tr>
<tr>
<td></td>
<td>118.5</td>
<td>90</td>
<td>F</td>
<td>173.5</td>
<td>F</td>
</tr>
<tr>
<td>Notes:</td>
<td>1. All turning movements permitted. Analysis assumes 8 trains per hour with no electrification. Traffic analysis was conducted using PTV Vissim software.</td>
<td>2. All turning movements permitted. Analysis assumes 14 trains per hour with electrification. Traffic analysis was conducted using PTV Vissim software.</td>
<td>3. The following turning movements would not be possible: left-turn, right-turn and through traffic from eastbound Churchill, through traffic from westbound Churchill, northbound left-turns and southbound right-turn from Alma. Traffic analysis was conducted using PTV Vissim software.</td>
<td>4. All turning movements permitted. Traffic analysis was conducted using PTV Vissim software.</td>
<td>5. The following turning movements would not be possible: east-bound and westbound through traffic on Churchill Avenue across Alma Street, left-turn from westbound Churchill, and left-turn from southbound Alma. Traffic analysis was conducted using SimTraffic.</td>
</tr>
</tbody>
</table>

However, the Closure Alternative would cause the existing traffic using the Churchill railroad crossing to reroute to other crossings, creating traffic impacts on Embarcadero Road, Alma El Camino Real, and Oregon Expressway/Page Mill Road. The impacts on the intersections on these corridors were further studied to identify mitigation measures. To evaluate existing trip patterns that currently use Churchill Avenue, an origin-destination (O-D) analysis was conducted within the study area. The objective of this task was to determine how traffic would be rerouted with Churchill closed. Data for a typical Tuesday, Wednesday, and Thursday for the morning and afternoon hours during 2017, while schools in Palo Alto were in session (using the Street Light Data platform) was used for evaluating trip patterns through the Alma Street and Churchill Avenue intersection. Following six (6) intersections were identified to be impacted by the rerouting of traffic due to Churchill Closure. The existing and future LOS for these intersections is shown in Table 4
1. Alma Street/Lincoln Avenue
2. Alma Street/Embarcadero Road
3. Alma Street/Kingsley Avenue
4. El Camino Real/Embarcadero Road
5. El Camino Real/Oregon Expressway-Page Mill Road
6. Alma Street/Oregon Expressway

Table 4: Churchill Closure – Impacted Intersections LOS

<table>
<thead>
<tr>
<th>#</th>
<th>Intersection</th>
<th>Peak Hour</th>
<th>Traffic Control</th>
<th>Existing Avg. Delay (sec.)</th>
<th>LOS</th>
<th>Churchill Closure</th>
<th>Existing Avg. Delay (sec.)</th>
<th>LOS</th>
<th>Year 2030 Avg. Delay (sec.)</th>
<th>LOS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Alma St &amp; Lincoln Ave</td>
<td>AM One-Way</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM Stop</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Alma St &amp; Embarcadero Rd</td>
<td>AM One-Way</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM Stop</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Alma St &amp; Kingsley Ave</td>
<td>AM One-Way</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM Stop</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>El Camino Real/Embarcadero Rd*</td>
<td>AM Signal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM Signal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>El Camino Real/Oregon Expwy-Page Mill Rd*</td>
<td>AM Signal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6A</td>
<td>Alma St &amp; Oregon Expwy WB Off Ramp (Oregon Ave)</td>
<td>AM One-Way</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM Stop</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6B</td>
<td>Alma St &amp; Oregon Expwy EB Off Ramp</td>
<td>AM One-Way</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM Stop</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes:
1. "CIMP" Intersection.
2. Average delay is reported for the worst approach at one-way stop intersections.
3. Bold indicates substandard intersection level of service.

Mitigation Measures:
Potential mitigation measures were identified for the intersections that were shown to be impacted as described below.

Alma Street Intersections (Intersection # 1, 2, and 3) - See Figure 1 for conceptual layout
- Restrict the intersection of Alma Street/Lincoln Street to right-in/right-out only movements.
- Divert left-turning traffic off of Lincoln Avenue by adding a left-turn lane to the Embarcadero Road slip ramp to facilitate left-turns onto Alma Street.
- Install traffic signals at the Alma Street/Embarcadero Road slip ramp and Alma Street/Kingsley Avenue with one controller.
- Install a traffic signal at the Embarcadero Road/Kingsley Avenue intersection to allow left turns from Kingsley Street onto westbound Embarcadero Road.
- Provide a 75 to 100-foot left-turn pocket on southbound Alma Street at Kingsley Avenue.
- Provide two northbound travel lanes on northbound Alma Street at Kingsley Avenue.
In addition, providing two northbound travel lanes on Alma Street at Kingsley Avenue would require widening of the Alma Street bridge over Embarcadero Road, as the existing width of the bridge can only accommodate three travel lanes on Alma Street. Therefore, widening would be required and will include extensive modification or potential replacement of the existing bridge structure. However, no additional right-of-way needs are anticipated on Alma Street, south of Embarcadero Road.

Figure 1: Mitigation Measures (Conceptual layout for Alma Street Intersections - Lincoln, Kinsley, & Embarcadero)

El Camino Real/Embarcadero Road (Intersection # 4)
The analysis showed that at the Congestion Management Program (CMP) intersection of El Camino Real/Embarcadero Road, significant traffic impacts would occur due to reassigned traffic. It is recommended that an additional westbound left-turn lane and a northbound right-turn lane be provided along with signal optimization at this intersection. With these improvements, the intersection of El Camino Real and Embarcadero Road would operate at acceptable LOS E during both peak hours under existing and Year 2030 traffic volumes.

El Camino Real/Oregon Expressway-Page Mill Road (Intersection # 5)
El Camino Real/Oregon Expressway-Page Mill Road, also a CMP intersection, the traffic analysis identified significant traffic impacts due to reassigned traffic. The report recommended a westbound right-turn lane from Oregon Expressway to northbound El Camino Real along with optimizing the signal timing. With these improvements, the intersection would operate at acceptable levels of service during the AM and PM peak hours under existing conditions. Under Year 2030 traffic conditions, the analysis shows that the intersection would continue to operate at unacceptable LOS F with the proposed improvements. However, the intersection delay...
during both the AM and PM peak hours is projected to be lower than the intersection delay without these improvements.

**Alma Street & Oregon Expressway (Intersections # 6A and 6B)**

The traffic analysis identified significant impacts to the intersections of Alma Street/Oregon Expressway with the reassignment. The analysis determined that these intersections currently meet the peak hour signal warrant and recommends traffic signals at both the on and off-ramps. With the proposed traffic signals at both the ramp locations, the intersections of Alma Street and Oregon Expressway are projected to operate at acceptable LOS C or better during both peak hours under existing and Year 2030 traffic conditions.

The study indicated that these intersections in existing conditions and future conditions with no improvements will be at LOS F. However, with the implementing the proposed mitigation measures, the LOS on these intersections for the future 2030 conditions will improve at most locations. The future LOS for these intersections is shown in Table 5 below.

**Table 5: Churchill Closure – Impacted Intersections LOS (Future 2030 Conditions)**

<table>
<thead>
<tr>
<th>#</th>
<th>Intersection</th>
<th>Peak Hour</th>
<th>Churchill Closure - Year 2030 Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>No Improvements</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Traffic Control</td>
</tr>
<tr>
<td>1</td>
<td>Alma Street &amp; Lincoln Avenue</td>
<td>AM</td>
<td>One-Way</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM</td>
<td>Stop</td>
</tr>
<tr>
<td>2</td>
<td>Alma Street &amp; Embarcadero Road</td>
<td>AM</td>
<td>One-Way</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM</td>
<td>Stop</td>
</tr>
<tr>
<td>3</td>
<td>Alma Street &amp; Kingsley Avenue</td>
<td>AM</td>
<td>One-Way</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM</td>
<td>Stop</td>
</tr>
<tr>
<td>4</td>
<td>El Camino Real/Embarcadero Rd*</td>
<td>AM</td>
<td>Signal</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM</td>
<td>Stop</td>
</tr>
<tr>
<td>5</td>
<td>El Camino Real/Oregon Expwy-Page Mill Rd*</td>
<td>AM</td>
<td>Signal</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM</td>
<td>Stop</td>
</tr>
<tr>
<td>6A</td>
<td>Alma St &amp; Oregon Expwy WB Off Ramp (Oregon Ave)</td>
<td>AM</td>
<td>One-Way</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM</td>
<td>Stop</td>
</tr>
<tr>
<td>6B</td>
<td>Alma St &amp; Oregon Expwy EB Off Ramp</td>
<td>AM</td>
<td>One-Way</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PM</td>
<td>Stop</td>
</tr>
</tbody>
</table>

**Notes:**
1. Average delay is reported for the worst approach at one-way stop Intersections.
2. Bold indicates substandard intersection level of service.

**Viaduct**

Based on the traffic study for the Viaduct Alternative, the intersection of Alma/Churchill operates at LOS F during both the AM and PM peak hours with or without Caltrain electrification project, considering no additional improvements are performed at the grade crossing. However, as Table 3 shows, the Viaduct Alternative will bring the intersection operations to LOS D during the AM and LOS E during PM peak hours.
Partial Underpass

This alternative proposes to separate Caltrain from Churchill Avenue but preserve access to Alma street by keeping Churchill Avenue partially open via a modified underpass as described in the layout section earlier in the report. The most significant traffic-flow change is that no through traffic would be possible on Churchill Avenue across Alma Street. This alternative also would separate the bicycle and pedestrian traffic crossing Alma Street from vehicular traffic by providing a bridge over Churchill Avenue that connects to the bike trail next to Palo Alto High School.

Because through traffic and some turning movements at Churchill would not be possible, some traffic would reroute to other streets. The following traffic movements would need to reroute:

- Eastbound through traffic on Churchill – 90% of the traffic is expected to reroute to turn left on Alma and travel north to use Embarcadero Road or one of the neighborhood cross streets. 10% of the traffic is expected to turn right at Alma and use one of the neighborhood cross streets.
- Westbound through traffic on Churchill Avenue – All traffic is expected to make a right turn on Alma and travel north to use Embarcadero Road.
- Westbound left-turn traffic on Churchill Avenue – All traffic is expected to use another of the neighborhood streets to access Alma.
- Southbound left-turn traffic on Alma Street – All traffic is expected to turn left into one of the other neighborhood streets.

As shown in Table 2 and Table 3, the signalized intersection of Alma Street and Churchill Avenue would operate at acceptable LOS C or better during both the AM and PM peak hour periods with the existing and future traffic volumes.

Noise & Vibration Analysis

Noise Analysis

As part of the evaluation, a noise study was conducted to better understand the relative benefits or penalties of the grade separation alternatives. A noise survey was conducted in the study area to establish existing conditions in a variety of locations throughout the project. The noise measurement locations were selected to represent a variety of noise-sensitive land uses in the study area with an emphasis on residential land uses. Most measurement locations were conducted at publicly accessible areas that were similar in distance and acoustical setting to nearby residential locations with an emphasis on first and second-row homes (typically within about 300 feet of the rail line and about 1500 feet of a grade crossing). Both short- and long-term noise measurements were conducted to evaluate the noise study.

For each alternative, the noise levels were predicted for generalized locations of the first row and second row of homes on both east and west side of the tracks. It was expected that at
locations beyond second-row homes, train events may still be audible, but calculated noise levels would be much closer to (or lower than) existing ambient noise levels.

The following table provides a summary of how the relative contributions of rail and road noise sources may be expected to change as a function of proposed alternatives. Most noise source levels will be reduced by most alternatives as they introduce more noise-reducing features such as increased shielding from noise barriers or structures, however, it is noted that engine noise viaduct alternative could increase slightly since the increased elevation of the rail path may reduce the effectiveness of first-row shielding at second-row homes.

TABLE 6: Noise Source Changes by Alternative

<table>
<thead>
<tr>
<th>Proposed Alternative</th>
<th>Potential Noise Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Horns/Bells</td>
</tr>
<tr>
<td>Existing</td>
<td>No change</td>
</tr>
<tr>
<td>EMU trains</td>
<td>No change</td>
</tr>
<tr>
<td>Closure</td>
<td>Reduction</td>
</tr>
<tr>
<td>Trench</td>
<td>Reduction</td>
</tr>
<tr>
<td>Viaduct</td>
<td>Reduction</td>
</tr>
<tr>
<td>Hybrid</td>
<td>Reduction</td>
</tr>
<tr>
<td>Tunnel (passenger + freight)</td>
<td>Reduction</td>
</tr>
<tr>
<td>Tunnel (freight at grade)</td>
<td>Reduction</td>
</tr>
<tr>
<td>Underpass</td>
<td>Reduction</td>
</tr>
</tbody>
</table>

¹) May create some increased noise level beyond first row for diesel freight events
²) decrease at receivers to west
³) depends on new roadway configuration

In order to provide a quantitative comparison of relative acoustical benefits for these alternatives, future noise levels were calculated for representative residential locations at typical first and second-row homes to the east and west of the rail line. These calculations followed the methodology and calculation methods presented in the Federal Transit Administration’s (FTA) Transit Noise and Vibration Impact Assessment Manual (2018) and assumptions were based on the Caltrain data provided in their environmental documents.

In addition to the alternatives in consideration, the noise study reviewed the additional scenario with a beneficial 6-foot tall parapet barrier that was assumed for the viaduct alternatives for the grade crossing closure and underpass alternatives. The following table provides a summary of the results of the noise reduction based on the prediction analysis for each alternative and each generalized receiver location.
The study indicated that the biggest noise reduction would come from eliminating horn soundings in the vicinity of grade crossings with typical reductions of 9 to 14 dBA (as demonstrated by the “Existing vs. Closure” scenario). While all the studied alternatives will provide the acoustical benefit of ending horn soundings, some will provide smaller additional benefits.

Viaduct and hybrid alternatives will provide the additional benefit of reducing wheel/rail noise at all receivers and the hybrid alternative will also help reduce Alma street road noise for homes to the west of the rail line. The trench alternative will both provide significant reductions for engine and wheel/rail noise.

**Vibration Analysis**

The movements of rail vehicles generate ground-borne vibration. According to FTA guidelines, a passenger/freight rail line would have to pass within less than 20 feet of a typical residential structure to potentially cause structural damage which would not be an issue with this project.

However, human perception of, and potential annoyance to ground-borne vibration could be triggered in homes within 150-200 feet from the tracks. Under the current/existing conditions, many of the first-row homes to both the east and west of the track are already within 200 feet of the tracks and may already be experiencing perceptible vibrations from train pass-by events.

The vibration study conducted a relative qualitative assessment of changes in ground-borne vibration level by proposed alternatives based on FTA guidance. The following table provides a brief summary of the qualitative assessment.
## TABLE 8: Potential Change in Ground-Borne Vibration by Alternative

<table>
<thead>
<tr>
<th>Alternative</th>
<th>Qualitative Change in Ground Borne Vibration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grade Crossing Closure</td>
<td>No Change</td>
</tr>
<tr>
<td>Churchill Viaduct</td>
<td>Significant reduction for homes both east and west.</td>
</tr>
<tr>
<td>Meadow/Charleston Viaduct</td>
<td>Significant reduction for both east and west, but slightly better for west.</td>
</tr>
<tr>
<td>Hybrid</td>
<td>Slight reduction for homes both east and west</td>
</tr>
<tr>
<td>Trench</td>
<td>Slight reduction for homes both east and west</td>
</tr>
<tr>
<td>Tunnel, passenger and freight</td>
<td>Probable slight reduction for homes both east and west</td>
</tr>
<tr>
<td>Tunnel, freight at grade</td>
<td>Slight reduction for homes to west, possible increase for homes to east for nighttime freight events (which would be moved closer to homes)</td>
</tr>
<tr>
<td>Underpass</td>
<td>Little or no change</td>
</tr>
</tbody>
</table>

Source: FTA 2018, Table 6-12

As indicated in the table above, most of the proposed alternatives would either create no significant change or perhaps a slight improvement in ground-borne vibration. The viaduct alternative may provide a significant improvement.

However, a more detailed ground vibration engineering analysis for the selected alternative at each of the crossings will need to be completed to develop a more detailed vibration impact assessment with detailed recommendations for vibration mitigation features to be incorporated into the final design.

**Outreach**

During the XCAP process, community represented participated and provided feedback and comments. The city staff and Consultant provided support at the XCAP meetings and conducted studies, performed analysis, and provided additional technical information for the review of the alternatives.

Earlier in 2020, before the pandemic began, the City hosted two well-attended Rail Town Hall meetings and smaller neighborhood specific open house meetings to gain community input on the rail alternatives and answer community questions. Staff also developed and released online surveys and used social media, the City’s website, and electronic newsletters to inform, answer questions and gain feedback from the community on this important City priority.

In addition, to further engage the community, City staff hosted a [Virtual Town Hall](#) from August 19, 2020 to September 14, 2020 gaining over 1,000 unique visitors to the online platform. This virtual platform was designed to inform the community and seek feedback on the proposed alternatives for grade separation at the three grade crossing locations of Churchill Avenue, Meadow Drive, and Charleston Road. A summary report of Virtual Town Hall was provided as an informational report to the City Council on November 30, 2020 ([CMR 11759](#)). Staff and XCAP also provided project updates and related information to the Pedestrian and Bike Advisory Committee (PABAC), City’s School Liaison Committee, and City School Traffic Committee.
to the Virtual Town Hall format was a direct result of the pandemic and the opportunity to further community engagement through this project phase.

**Construction & Engineering Challenges:**
There are several Construction and Engineering challenges with each of these alternatives. These challenges are described below and are summarized in the table to show the impact on each alternative.

- **Conformance of railroad grade** with preferred maximum grade by Joint Peninsula Board (JPB)/Caltrain. With the current design, the viaduct alternative on Churchill Avenue exceeds Caltrain’s maximum preferred railroad grade. Therefore, it will require a design exception from the JPB/Caltrain.

- **Four Tracking of Caltrain:** during the later stages of the conceptual plan development, JPB/Caltrain indicated a need for four (4) tracking of its railroad line within the vicinity of south Palo Alto may be needed to accommodate future Caltrain demands. As a result, these designs shall accommodate the need of these future four tracks. These concepts as planned has not been designed to accommodate these four (4) tracking requirement. As such a future review and coordination with Caltrain will be needed.

- **Underground Structure Conflicts:** Installation of underground structures will impact the underground facilities with the Closure and Partial Underpass Alternative.

- **Ground Water Conditions:** Due to the groundwater conditions partial underpass will require pump stations for dewatering which will increase long-term maintenance costs and risk of flooding due to pump stations. The partial underpass alternatives will require dewatering near the intersections where improvements are constructed. In addition, some dewatering will be required to construct footings for viaduct structures.

- **Utility Relocation:** Utility relocations will be required to remove any conflicts with foundations and for any lowered construction conditions. For Closure with Mitigation and partial Underpass Alternatives, the utility relocation will be encountered generally at the pedestrian crossing locations, however, for the partial underpass alternative, such utility relocations will be at the intersection also. In addition, for Viaduct, any utility conflict within the foundations and pier structure will need relocation.

- **Shoo-Fly/Temporary Rial System:** Shoo-Fly /Temporary Rail system included temporary electrification of the tracks will be required to accommodate all alternatives except for the Closure with Mitigation Alternative based on the current design. For the Partial Underpass alternative, the XCAP members shared an alternative methodology “Box Jacking” that may be feasible. Such technique will require further evaluation and Caltrain acceptance before determination of applicability for Underpass Alternative.
- **Traffic During Construction**: For both Viaduct and Partial Underpass Alternatives, Alma Street will be reduced to a two-lane roadway to accommodate shoofly. However, for Underpass Alternative, during part of the construction, only one lane for northbound direction will remain open. In addition, the west leg of Churchill Avenue will be closed for part of the construction time period to perform sub-structure work to provide intersection improvements for Partial Underpass Alternative.

- **Construction Time Period**: Both Churchill Avenue Closure with mitigation options and Viaduct Alternatives are anticipated to take two (2) years to construct, whereas the Partial Underpass Alternatives is anticipated to take two and a half years (2-1/2) to three (3) years. The construction duration for the Partial Underpass Alternative, however, may change depending upon the construction means and methods.

<table>
<thead>
<tr>
<th>LOCATION/DESCRIPTION</th>
<th>CLOSURE WITH MITIATIONS</th>
<th>VIADUCT</th>
<th>PARTIAL UNDERPASS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Period</td>
<td>2 Years</td>
<td>2 Years</td>
<td>2.5-3 Years</td>
</tr>
<tr>
<td>Railroad Grade</td>
<td>-</td>
<td>1.6%</td>
<td>-</td>
</tr>
<tr>
<td>Shoo-Fly /Temp Rail System</td>
<td>NO</td>
<td>Yes</td>
<td>Yes /Alt Tech</td>
</tr>
<tr>
<td>Utility Relocation</td>
<td>Yes, at Ped/Bike Crossings</td>
<td>Yes, Conflicts with Foundations</td>
<td>Yes, at Crossings and Ped Bike Crossing</td>
</tr>
<tr>
<td>Closure on Alma</td>
<td>-</td>
<td>Reduced to 2 lanes, No turn lanes</td>
<td>Reduced to 2 lanes, 1NB lane only during part of construction</td>
</tr>
<tr>
<td>Intersection Closures/impacts</td>
<td>-</td>
<td>Minor Widening</td>
<td>West Leg of Churchill will be closed during part of construction</td>
</tr>
<tr>
<td>Dewatering &amp; Excavation</td>
<td>-</td>
<td>-</td>
<td>Yes, significant at intersection</td>
</tr>
<tr>
<td>Long term dewatering</td>
<td>-</td>
<td>-</td>
<td>Pump Station</td>
</tr>
</tbody>
</table>

**Project Cost**
The high-level cost breakdown based on the current designs is shown in the following table.
TABLE 10: Summary of Project Cost

<table>
<thead>
<tr>
<th>LOCATION/DESCRIPTION</th>
<th>CLOSURE W/MITIGATION</th>
<th>VIADUCT</th>
<th>PARTIAL UNDERPASS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roadway &amp; Railroad Items</td>
<td>$22M to $24M</td>
<td>$55M to $73M</td>
<td>$70M to $86M</td>
</tr>
<tr>
<td>Structure Items</td>
<td>$4M to $9M</td>
<td>$115M to $152M</td>
<td>$8M to $10M</td>
</tr>
<tr>
<td>Right-Of-Way &amp; Utilities</td>
<td>$4M to $7M</td>
<td>$16M to $20M</td>
<td>$24M to $30M</td>
</tr>
<tr>
<td>Support Costs</td>
<td>$11M to $14M</td>
<td>$60M to $80M</td>
<td>$28M to $36M</td>
</tr>
<tr>
<td>Escalation To 2025 Dollars</td>
<td>$9M to $11M</td>
<td>$54M to $75M</td>
<td>$30M to $38M</td>
</tr>
<tr>
<td>Total Project Costs</td>
<td>$50M to $65M</td>
<td>$300M to $400M</td>
<td>$160M to $200M</td>
</tr>
<tr>
<td>Construction Period</td>
<td>2 Years</td>
<td>2 Years</td>
<td>2.5 - 3 Years</td>
</tr>
</tbody>
</table>

Additional Studies

With the presentation of the XCAP Final Report to the City Council at the study session on March 23, 2021 and final recommendations on April 26, 2021, several concerns were brought up by the City Council and the XCAP that would require additional studies and consultant support in order to fully address in reviewing the alternatives. Subsequently, staff requested the project Consultant AECOM to provide estimated scope and costs for the additional studies and revisions that may be helpful in further reviewing the alternatives in consideration for the selection of the preferred alternative(s). These additional studies were identified for all alternatives including Meadow Drive and Charleston Road grade separation alternatives. On August 23, 2021 staff presented the details of the additional studies and staff recommendations.

Similarly, for Churchill Avenue, these studies are presented again to seek direction from the Council on additional studies that would help in further narrowing the alternative selection. It should be noted that many of these studies are typically conducted later in a construction project development process and focused on a primary rather than multiple alternatives. This is reflected in the associated costs. In addition, conclusions from these studies must be considered preliminary, since responsible agencies such as Caltrain will provide limited guidance and feedback at the current conceptual design stage. Nonetheless, to the extent these studies provide community stakeholders greater confidence in decision-making, the costs involved represent a small percentage of the ultimate costs of grade separation construction. The additional studies with estimated scopes and fees are listed below.

It is worth noting, when considering further studies to be conducted, the distinct roles of City staff and our consultant team. As noted above, many of the studies described below are typically conducted later in project development. As such, neither staff nor our consultants are advocating for advancing these studies at this time. At the same time, the consultant team
brings the subject matter expertise and resources needed to provide the additional analysis desired to support decision-making. Staff will negotiate with our consultants on study scopes and fees based on Council direction. Should Councilmembers believe that further studies would more appropriately be conducted by independent organizations, staff would like to discuss any concerns. The schedule, cost effectiveness, and workload effect of such direction should be considered, while recognizing that ultimately staff could pursue separate procurements for the required services.

Overall, the estimated scope and fee listed above for various studies is inclusive of work anticipated for all three crossings (Churchill Avenue, Meadow Drive, and Charleston Road). In general, these costs are not directly proportional to the number of crossings. Depending upon the City Council direction, if a particular item needs exclusion from further study at any of the crossings, the scope will be reviewed and negotiated with the consultant. Discussion and direction from the Council on priorities within these potential additional studies will help staff manage project costs and ensure continued progress on the evaluation of the alternatives within resources.

**Track Review and Caltrain Coordination:** *Estimated fee* $90,000-$110,000.
JPB/Caltrain has adopted the moderate-growth improvement program as outlined in its Business Plan ([https://caltrain2040.org/](https://caltrain2040.org/)). However, JPB also indicated that the high-growth improvement program should not be precluded. Palo Alto has been identified in the Business Plan as a location for the high-growth improvements, including 4-tracks. To date, alternatives developed for the Rail Program have been evaluated for 2-tracks. Identifying the implications of each alternative with 4-tracks will require additional engineering analysis.

- **Gather Data from Caltrain:** Meet with Caltrain to gather more information about what the limits of the 4-track alignment would be and what the typical section would be along the limits and at the stations.

- **Evaluate Alternatives:** Conduct a high-level analysis of the impacts of 4-tracks for each alternative still under consideration (MC Viaduct, MC Hybrid, MC Trench, MC Underpass, CH Viaduct, CH Underpass, and CH Closure) by overlaying Caltrain’s 4-track geometry over the proposed 2-track. Identify a list of significant impacts for each alternative. Determine if the alternatives are still feasible with 4-tracks or does not preclude 4-tracks in the future. Note: This task assumes no animations or photo simulations or updates to existing exhibits.

- **Meet with Caltrain:** Meet with Caltrain to review the evaluation of alternatives and gather additional feedback on the feasibility and impacts of each.

- **Prepare memorandum report:** Prepare a draft and final memorandum report that documents the evaluation of the 4-track alignment and feedback received from Caltrain. Incorporate one-set of consolidated comments from the City and Caltrain on the draft technical memorandum.
Traffic Study Update (2040): Estimated fee* $45,000-$55,000

During the study session and the XCAP recommendations, there was a discussion to review the traffic conditions with the future forecast of 2040 rather than the 2030 forecasts that have been used in the traffic study. While explained that the forecast reflects Comprehensive Plan buildout rather than a specific year, additional land use forecasts could be incorporated in order to update the traffic model. The update to traffic analysis to reflect a future forecast year of “2040” rather than the year 2030 forecasts will require the following specific tasks.

- **Model Land Use:** Palo Alto has not identified any growth beyond 2030, which is considered the horizon for the Comprehensive Plan. Therefore, for the traffic analysis zones (TAZ) within Palo Alto, the land use data will be the same as the 2030 forecasts. Outside of Palo Alto, Hexagon will update the land use data to year 2040 using the latest version of the VTA model.

- **Model Forecasts:** Consultant (Hexagon) will run the Palo Alto model and produce traffic volume forecasts for the major streets in Palo Alto in the study area. These forecasts will be used to calculate growth factors, and the growth factors will be applied to the existing intersection turning movement counts from the prior traffic study. This will yield an estimate of intersection turning movement counts for 2040.

- **Traffic Calculations:** The 2040 forecast intersection turning movements will be used to recalculate intersection levels of service for the project alternatives. There are 11 project alternatives, and calculations will be done for the AM and PM peak hours. Thus, 22 scenarios will be included in the study.

- **Documentation:** Consultant (Hexagon) will prepare a revised traffic report that updates the long-range analysis to year 2040. The existing conditions analysis will remain unchanged.

Design Refinement Of Underpass Alternatives: Estimated fee* $125,000-$150,000

The XCAP in their presentation to the City Council recommended that the Underpass Alternative at Meadow and Charleston undergo an additional design iteration to incorporate input from the PABAC and school committees. As such staff requested the Consultant for their support to develop the estimated costs and scope as follows:

- **Enhance Alternatives:** Refine the three underpass alternatives (Churchill, Meadow, and Charleston) by including input received by the XCAP, the school committees, and the ped/bike advisory committees (PABAC, etc.).
  Note: This task assumes the railroad profiles remains at-grade.

- **Update Exhibits:** Update the plan, profile and typical section exhibits for each of the three alternatives.

- **Update Renderings:** Update the 3D CAD model and still image renderings to include all refinements, including those not captured previously (U-turn at Alma Plaza, for example).
  Note: This task does not include animations or photo simulations.
- **Update Cost Estimates:** Update the quantities, and cost estimates for each alternative. Note: If the unit costs get updated, then additional time will need to be added to update all other alternatives too for consistency.

- **Update Miscellaneous Items:** Update the Evaluation Matrix, Fact Sheets, website materials and VR room materials/exhibits based on the refinements.

**Preliminary Geotechnical Investigations: Estimated fee* $130,000-$160,000**

The XCAP in their presentation to the City Council recommended that the review of the subsurface conditions will provide a better understanding of the groundwater condition for the design of underground structures. As a result, staff requested the consultant to provide scope for the preliminary geotechnical investigation.

- **Data Collection and Review – Groundwater and Geotechnical:** Collect available geotechnical and groundwater data from adjacent projects. This could include data from Santa Clara Water District channel projects, Caltrans Local Bridges, and other sources.

- **Field Investigation – Two CPT Borings:** Once the existing available data has been collected and reviewed, a recommendation to conduct a limited geotechnical field investigation to confirm data closer to proposed bridge and retaining wall structures. For this effort, two Cone Penetrometer Test (CPT) borings are anticipated. Recommendations for further detailed geotechnical field investigations will be evaluated but deferred to the next level of design. The purpose of this limited geotechnical investigation is to confirm design assumptions made during this design phase.

- **Memorandum Report – Draft and Final:** The data collected in the stated tasks above will be summarized in a memorandum. The memorandum will also discuss further investigation needed for detailed design as well as confirm assumptions used for bridge and retaining walls foundations.
**Box Jacking System/Geotechnical Investigation & Feasibility Study:** *Estimated fee* $350,000-$600,000

The XCAP in their presentation to the City Council recommended an additional review of the newer more advanced technologies such as “Box Jacking” could expedite the project and may also eliminate the need of shoofly thereby reducing the construction costs. Based on this recommendation, staff requested the consultant to provide scope for evaluating the feasibility of such a system. The scope for this work includes the preliminary geotechnical investigation and described below.

- **Data Collection and Review – Groundwater and Geotechnical:** The scope described in the task above for Preliminary Geotechnical investigation for data collection and field investigations is also be included in this task. In addition to the CPT described in the task above, one exploratory boring would be taken at each crossing location to supplement the data collected from the CPT.

- **Construction Methodology Evaluation:** Data collected in the above task will be used to determine the feasibility of a relatively long-span (40-60 feet or possibly longer) box culvert-like structure to support the various loading conditions (dead load, live load, lateral and vertical seismic loads, and buoyancy due to groundwater).

- **Construction Phasing / Sequencing:** In this task, the various components involved with the set up and operation of a box jacking system will be evaluated, such as dewatering of the excavation pit, the size of the pit and the extent of the temporary shoring, utility conflicts and the potential need for relocations, the maintenance of vehicular traffic and Caltrain’s overhead contact system.

- **Cost Estimate:** Prepare a rough order-of-magnitude (ROM) cost for the box jacking system.

- **3D Animation:** Prepare a 3D animation of the steps anticipated to complete the installation of a box culvert-like substructure via a box jacking system.

- **Memorandum Report:** The information in the tasks stated above would be summarized in a technical memorandum. It also includes the incorporation of one round of comments is (one Draft and one Final report).

Cost Details: Geotechnical Investigation $120,000-$150,000; Structural Analysis $230,000-$450,000

**Shadow Analysis (Light Plane Review):** *Estimated fee* $20,000-$25,000

- XCAP recommended that the shadow of the overhead structures may impact the residential properties adjacent to the tracks and shall be studied for such alternatives. Staff requested the consultant to provide the scope and fee for such work. The proposed scope by the consultant is as described below: **3D Model Development**
  - Collect geolocation info (Lat/Long and Elevation data) for correct sun angle
  - Complete topology and surface conditions
    - Note: This does not include a Lidar scan, it’s assumed that 3D information from public sources (i.e., Google Earth) are used
- Complete object 3D model (features that will cast shadows)
- Complete subject 3D model (features that will receive shadows)
- Model other details, as needed (trees, etc.)

- **Shadow Study Analysis**
  - Shadow Study Analysis
    - Note: One specific day of the year will be selected for the analysis
  - Organization and Preparation: Study imagery combined with analytics
  - Add Legend/Icons/Notes

- **Study Document Production and Final Report**
  - Image and document post-production using Adobe Illustrator and Photoshop
  - Combine multiple studies using Adobe InDesign
  - Address comments and complete final report

Assumptions for these studies:
- Three sites (Churchill, Meadow, and Charleston) and two alternatives (Viaduct at each and a Hybrid at Meadow and Charleston) will be studied.
- Each site has three proposed subjects (buildings) to be analyzed.
- Each site will have several buildings that can be used to extrapolate shadow study analytics for that area. Structures predicted to receive the most shading will be the subjects for study.
- The estimate includes one study at Churchill (Viaduct), two studies each at Meadow and Charleston (Viaduct and Hybrid).
- Fifteen (15) shadow analyses will be completed; three (3) at Churchill, six (6) at Meadow, and six (6) at Charleston. Each one will include an analysis of shadow impact on the target structure and a visual of the shadow path, sun angles, and other simulation details. Studies for each site will be combined and annotated according to any given constraints. For example, a pass/fail system based on a maximum number of shade hours a target structure is allowed to receive.
Additional Noise Study: Estimated fee* $55,000-$65,000

The XCAP and community members were concerned with the lack of the extent of the noise study. As a result, staff requested the consultant to provide scope for the expanded study area and to include future growth of Caltrain as part of this study. The proposed scope by the consultant is as described below:

**Expand Study Area/Measurements:** Conduct additional noise measurements, going further back into the adjacent residential neighborhoods (perhaps 3 or 4 rows in a few locations near grade crossings) to determine the contribution of existing train noise relative to non-train ambient noise levels at these locations and incorporate these findings into the evaluation of the various grade separation alternatives.

- **Expand Analysis for Future Growth:** Expand the noise analysis to consider the comparative influence of the future growth scenarios (see table below) on the projected relative effectiveness of the proposed grade-crossing design alternatives.

**TABLE 9: Trains per Day, Caltrain Corridor**

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Year (Est.)</th>
<th>Type of Train</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Caltrain</td>
<td>Freight HSR</td>
</tr>
<tr>
<td>Existing</td>
<td>2020</td>
<td>92</td>
<td>3</td>
</tr>
<tr>
<td>Electrification</td>
<td>2024</td>
<td>114</td>
<td>3</td>
</tr>
<tr>
<td>Baseline growth</td>
<td>2040</td>
<td>174</td>
<td>3</td>
</tr>
<tr>
<td>Moderate growth</td>
<td>2040</td>
<td>268</td>
<td>3</td>
</tr>
<tr>
<td>High Growth</td>
<td>2040</td>
<td>348</td>
<td>3</td>
</tr>
</tbody>
</table>

Source: Caltrain Business Plan

- **Analyze Structural Noise/Vibration:** Conduct a limited literature review to collect data and support technical conclusions regarding the relative acoustical contribution of modern viaduct structures such as those proposed for use in the viaduct alternative.

- **Update Noise Study Report:** Update the technical noise report document to incorporate all three of the preceding expanded analyses and present the result (remotely) at a City Council meeting and incorporate one round of comments into a final report document.

**Storm Drainage Infrastructure:** *Estimated fee* $200,000 – $250,000

- This item is primarily covering the major storm drainage infrastructure that will impact the trench alternative for Meadow Charleston and therefore not applicable for Churchill Avenue.

- **Evaluate Trench Storm Drain Alternatives:** An evaluation of a siphon or a lift station options will be performed for the creek crossing based on the trench grade separation alternative. The following items will be considered:
  - Environmental issues/concerns (e.g., impact to creek habitat)
- Permit requirements (RWQCB, SCVWD, FEMA, USACE, Department of Fish and Game)
- Flooding potential and impacts
- Maintenance issues and long term requirements
- Design Options and conceptual details (depth of siphon, entrance/exit slope and length, etc.)
- Utility conflicts and impacts
- Temporary shoring requirements
- Traffic impacts during construction
- Right-of-way impacts
- Groundwater and aquifer impacts

A rough order-of-magnitude (ROM) cost will be developed for both options.

- **Evaluate Underpass Storm Drain Alternatives:** Drainage requirements for the underpass alternatives will be determined. For example, the size of the pump station, and the location of a motor control center (MCC) building, and potential right-of-way impacts, will be considered. A ROM cost will also be included.

- **Prepare Memorandum Report:** The information from the evaluation will be summarized in a technical memorandum. Incorporation of one round of comments is assumed (one Draft and one Final report).

**Additional Outreach:** *Estimated fee* $15,000-$20,000

- **Conduct Meetings with Additional Stakeholders:** Conduct separate virtual meetings with Palo Alto Unified School District (PAUSD), Stanford, and the Palo Alto Bicycle Advisory Committee (PABAC) to review the alternatives still under consideration (MC Viaduct, MC Hybrid, MC Trench, MC Underpass, CH Viaduct, CH Underpass, and CH Closure). A total of three meetings with the stakeholder are anticipated.

- **Prepare Meeting Notes:** Prepare draft and final meeting notes for each that document the feedback received from each stakeholder. Develop a list of revisions to be considered at the next phase of design. Incorporate one-set of consolidated comments from the City and Caltrain on the draft technical memorandum. Note: This task does not include revising/updating any previously prepared exhibits or changing the location of the ped/bike undercrossing.
The XCAP members asked the staff to explore the possibility to bring in the urban designer for review of the alternatives. Staff requested the consultant to provide scope for such services. The scope of work is described as follows:

- **Urban Design / Public Realm Opportunity Mapping**: Identify opportunities for public realm improvements for each of the three (3) alternatives that considers landscaping, public art, pedestrian, and bicycle network enhancements and other placemaking strategies that benefit the community as well as the environment. An opportunities and constraints urban design plan diagram will be created for each of the three alternatives.

- **Urban Design / Public Realm Design Enhancements**: Building on the analysis in opportunity mapping task, the layout of potential public realm enhancements that provide co-benefits to the community will be prepared. Strategies that will be considered includes urban greening, integration of public art, aesthetic character of walls and hardscape, and an overall human-centric approach to design that enhances the experience for the public. A conceptual site plan for each alternative will be updated with the proposed public realm design features. Note: This task does not include renderings, animations or photo simulations.

- **Meetings**: Two (2) team members to attend up to eight (8), virtual team coordination meetings.

**Conceptual Design for Ped/Bike Undercrossing At Seale And Loma Verde**: Estimated fee* $80,000-$100,000

The XCAP in their presentation to the City Council indicated concerns about the limited pedestrian bike crossings across the Caltrain corridor. The interest of the XCAP was to provide for these facilities prior to construction of grade separation alternatives so that there is adequate mobility across the corridor. As a result, staff requested the consultant to provide scope for such services. The scope of work is described as follows:

- **Conceptual Layouts**: Develop plan, profile and typical section exhibits for a ped/bike undercrossing at two locations: Seale Ave/Peers Park and Loma Verde Ave.

- **Cost Estimates**: Develop a conceptual-level cost estimate at each location to the same level of detail that was done for the previous alternatives.

- **3D Renderings**: Create a 3D CAD model of the conceptual designs and provide up to six (6) computer-generated renderings and two (2) photo simulations at each location.

- **Miscellaneous Public Outreach Materials**: The two concepts will be added to the Evaluation Matrix. Fact Sheets for each will be provided, and exhibits will be uploaded to the website. In addition, the VR room will be updated accordingly.

This Council discussed and directed the staff to continue work on the bike plan in parallel with consideration of construction time and interaction with grade crossing plans.
Sustainability: Estimated fee* $50,000-$80,000

The community members and the City Council indicated interest in the sustainability factors for these alternatives. As a result, staff requested the consultant to provide scope for such services. The scope of work is described as follows:

- **Sustainability Strategy Plan:** All of the alternatives developed to date can incorporate sustainability practices into the design. This task will develop a strategy to identify major categories where sustainable materials and practices can be incorporated into final design of alternatives.

- **Bike/Ped Usage:** Lowering greenhouse gases usage factors into the sustainable design of an alternative. Pedestrian and bicycle facilities factor into reduced greenhouse gases. This task would evaluate how bike/ped facilities can be improved in relation to the grade separation alternatives.

*The estimated scope and fee listed above for various studies is inclusive of work anticipated for all three crossings (Churchill Avenue, Meadow Drive, and Charleston Road). Most of these studies can be performed independently for each of the alternatives at these crossings. However, there is a general economy of scale in performing similar work for a greater number of alternatives and crossings. In addition, some of the studies such as Noise Study update and Traffic Study Update for 2040, if conducted will be tied to update models for all crossings concurrently. Box Jacking evaluation also uses. Therefore, these costs are not directly proportional to the number of crossings. Depending upon the City Council direction, if a particular item needs exclusion from further study at any of the crossings, the scope will be reviewed and negotiated with the consultant.

**Next Steps**

- Following the City Council's review of alternatives in detail and possible narrowing of alternatives and direction from the City council on the additional studies, staff will negotiate with AECOM Consultants, the final scope and fee for this additional work. Staff will then return to Council for approval of an amendment to the existing consultant contract for expanded scope of work needed to accomplish additional work.

- Perform additional studies of selected alternatives as directed at each of the locations and bring back additional information for Council consideration.

- Rail Committee to discuss the financial consideration, when substantive information from the additional studies becomes available.

- Direction from the City Council on the final selection of the preferred alternative at each of the three crossings.

- Direction to staff for preparing the initial Project Study Report (PSR) that provides the summary of actions and demonstrates the purpose, need and provides the scope of the project which is necessary to complete studies and the work needed for project approval and environmental design.
The selection of preferred alternatives will therefore lead to the development of preliminary engineering and preparation of environmental documents including the associated Environmental Impact Report (EIR). The completion of Environmental documents will better position the City to seek grant funding from Federal and State programs for such projects. Depending upon the timing and funding availability, after the approval of EIR, the project will move towards completion of final design documents and then followed by construction of project improvements.

**RESOURCE IMPACT**

Preliminary scope and cost estimates to conduct additional studies were developed for all three rail crossings (Churchill Avenue, Meadow Drive, and Charleston Road) for Council’s review and consideration for further staff direction. The recommendation to perform additional studies needed to select the preferred alternative will result in direct resource impact. Amendment to the Consultant Contract for performing these additional studies will be brought forward for Council approval.

Funding for the grade separation project of $2.3 million is programmed in the FY 2022 Adopted Capital Improvement Budget for Railroad Grade Separation Project (PL-17001) that includes funding from 2016 Measure B Local Streets and Roads. The anticipated costs of all the studies for these crossings is estimated to range between $1.25M to $1.73M. Funding for future years is subject to City Council approval through the annual budget process.

Direction from the City Council regarding further work, outside those recommended in this report, on the grade separation projects may lead to future resource impacts. As City Council direction is provided, corresponding budget adjustments will be brought forward for approval as appropriate. Rail grade separation projects are historically funded by the General Capital Improvement Fund through funding sources such as Measure B, SB1 and in or through General Fund support. Additional funding allocations will need to be taken into consideration of competing needs and limited funding remaining as part of the general Capital Improvement Fund.

**ENVIRONMENTAL REVIEW**

The proposed action is part of a planning study for a possible future action, which has not been approved, adopted, or funded and is therefore exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15262. The future decision to approve the construction of any one of the identified potential alternatives would be subject to CEQA and require the preparation of an environmental analysis. Environmental review and design for the grade separation project will be performed in the subsequent steps of the project development.
DOCUMENTS
All of the project-related documents are posted on the project webpage here: https://connectingpaloalto.com/. Here are direct links furthered for Council consideration and public information as part of this staff report:

- Fact Sheets & Matrix
- Renderings & Animations
- Traffic Analysis Report
- Noise & Vibration Report
- Virtual Town Hall website

XCAP Final Report & Appendix
Appendix A contains Fact Sheets, Matrix, Renderings and Plans (created by AECOM). Appendix B contains general information. Appendix C contains XCAP materials. Due to file size limitations, the Appendix is broken into six parts:

- **XCAP Final Report**
  - Part 1: Appendix A-1 thru A-2-1
  - Part 2: Appendix A-2-2 (01-04)
  - Part 3: Appendix A-2-2 (05-08)
  - Part 4: Appendix A-2-3 thru A-6
  - Part 5: Appendix B
  - Part 6: Appendix C
DATE: November 15, 2021

TO: City Council Members

FROM: Council Member DuBois, Council Member Kou, Council Member Stone

SUBJECT: ADOPTION OF A RESOLUTION CREATING A SIBLING CITY RELATIONSHIP WITH CITY OF BLOOMINGTON, INDIANA, AND AUTHORIZING THE MAYOR TO EXECUTE A SIBLING CITY AGREEMENT (9:30 - 10:15 PM)

Goal:
The goals are
● to initiate a program designed to help pull our country together and learn from our similarities and differences. By creating a program of shared community engagement, exploration of economic collaboration, cultural exchange, and joint town hall discussions we can learn and benefit from each other’s experiences.
● to pilot the nation’s first domestic sibling city relationship in conjunction with a national program being launched simultaneously.

Issue and Background:
● In Mayor DuBois’ s State of the City address he spoke about Palo Alto forming a US-based sibling city relationship to create empathy and understanding, forge connections, create business collaborations, and share ideas. (link)
● A similar initiative at the national level has been launched by Palo Altan Vicki Veenker named Sibling Cities USA (SCUSA). SCUSA promotes national unity by pairing regionally distant US cities to form relationships to increase cultural understanding and respect under three Pillars of Connection: Pillar One - Community Engagement, involving culture, arts, and education exchanges, Pillar Two - exploration of economic collaboration, and Pillar Three - constructive political discourse. A briefing on this new National initiative is attached as an Appendix
● Palo Alto’s Sister City program, facilitated by Neighbors Abroad, has proven the benefits of global engagement across eight international sistercities. The diversity and opportunity for engagement within America is expected to yield benefits similar to those of our international sister cities. Extending international relationships within
national boundaries has already been validated in Germany where sister city relations are maintained between the former west and east Germany. Palo Alto’s Sister City Heidelberg “twins” with Bautzen, Germany. (link)

- This year Mayor DuBois visited numerous cities in the Midwest. There are many dimensions to our divides including views on the role of government, race, the economy and geography, and misunderstandings about the diversity of views in every region.
- We propose Bloomington, Indiana as Palo Alto’s first domestic sibling city relationship because it has both regional differences and common attributes that bode well for an enduring relationship. We believe that Bloomington is a community that will be a strong partner in this trailblazing effort which can be a stepping stone for exploring best practices for future domestic sibling city relationships.
- Mayor DuBois met with Mayor Hamilton and his staff this spring and attended a gathering with Bloomington’s Council President and other community members hosted by Vicki Veenker this past spring.
- Bloomington and Palo Alto are roughly the same size and both are college towns. This provides an opportunity to explore and compare both the assets and challenges that hosting a university brings. There are also differences. Indiana as a whole typically votes Republican in presidential elections while California votes along Democratic lines. Bloomington is nestled in the rolling hills of southern Indiana, so many are surprised to learn of its progressive nature consistent with a university town. However, unlike Palo Alto, the environs around Bloomington are conservative. As such, there are commonalities for comfort and differences for discovery.
- Mayor DuBois chaired an informal and capable local committee that has been a partner in evaluating and planning for a domestic sibling city relationship for Palo Alto. The committee includes interested residents, our service organizations, Chamber of Commerce, Neighbors Abroad, and Stanford. This committee assembled the briefing that gives further rationale, as well as anticipates program activities.
- Vicki Veenker has worked closely with the Palo Alto committee to ensure coordination with Sibling Cities USA.
- We will honor this commitment by adding a new sign to the existing Sister City sign. A private donor has already offered to support this addition.

Recommendation:
1. Approval of the Domestic Sibling City resolution between Bloomington, Indiana and Palo Alto which would authorize the Mayor to sign a Sibling City Agreement with Bloomington, Indiana.
2. Request staff to incorporate engagement with Bloomington, Indiana into Palo Alto’s existing Sister City framework.

Resource Impact:
- Staff Labor Impact. The City Manager’s Office supports international relations,
participating in monthly calls involving staff and community in mostly European Sister Cities as well as participating in city-to-city visits as needed. Staff also has contacts in the other Sister Cities outside of Europe. Staff anticipates similarly participating in staff and community communications with Bloomington.

- **Financial Impact.** – The City has a contract with Neighbors Abroad for administering Sister City relations as of 2019. The contract is in the process of being renewed for an additional $30,000 (same amount as original contract). Neighbors Abroad will include this obligation within the current contract funding.

**Attachments:**

- **Attachment13.a:** Resolution to Establish U.S. Sibling City
- **Attachment13.b:** Bloomington Indiana || Palo Alto, California Domestic Sibling City Briefing Document
- **Attachment13.c:** National Sibling Cities USA Briefing Document
- **Attachment13.d:** Neighbors Abroad Letter Supporting Sister City Relationship
Resolution No. _____

Resolution of the City of Palo Alto to Establish a Sibling City Relationship with the City of Bloomington, Indiana

RECITALS

A. The Mayor of Palo Alto set as a goal in the 2021 State of the City that a domestic sibling city relationship be established with another US city to help pull the country together, forge connections, expand business collaborations, and share ideas; and

B. The international sister city concept was inaugurated by the President of the United States in 1956 to establish greater friendship and understanding between the peoples of the United States and other nations through the medium of direct personal contact; and

C. President Biden recognized that we need to act to promote unity so that “disagreement does not lead to disunion;” and

D. Sibling Cities USA, beginning this year, has established a national program to build relationships between US cities in different regions of the country; and

E. Neighbors Abroad and many Palo Alto community leaders support the City of Palo Alto establishing a sibling city relationship between the cities of Palo Alto, California and Bloomington, Indiana; and

F. The Mayors of Palo Alto and Bloomington have met and agree that the other city would be an excellent partner; and

G. The Mayors of Palo Alto and Bloomington share similar goals of cultural and civic interaction, economic and business collaboration and civic discourse through a Sibling Cities USA relationship; and

H. The City of Palo Alto has assigned the responsibility for carrying out the Palo Alto Sister City program to Neighbors Abroad; and

I. Neighbors Abroad has expressed intent to accept responsibility to implement the relationship knowing the City of Palo Alto will provide support consistent with other International Sister City relationships.
NOW, THEREFORE, the City Council of the City of Palo Alto RESOLVES, as follows:

Section 1. The City of Palo Alto shall enter into a sibling city relationship with the government and the people of the City of Bloomington, Indiana for the purpose of creating greater mutual understanding between the peoples of our two cities.

Section 2. The Mayor is authorized to execute an agreement with the City of Bloomington, Indiana to effectuate such a relationship between the two cities.

Section 3. The Council hereby authorizes Neighbors Abroad of Palo Alto to act as the official representative of the City of Palo Alto to carry out this program in collaboration with the City of Palo Alto.

Section 4. Copies of this Resolution are to be sent to the Mayor and Council of the City of Bloomington, Indiana, and Sibling Cities USA.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

_________________________    _________________________
City Clerk                                                                                         Mayor

APPROVED AS TO FORM:

_________________________    _________________________
City Attorney                                                                              City Manager
Bloomington, Indiana || Palo Alto, California

Briefing Document

October 2021

Prepared by the Palo Alto Sibling City Committee
This document provides a basis for the City Councils of Palo Alto, California and Bloomington, Indiana to establish a Sibling City USA relationship between the two cities. It is hoped and anticipated that this first of its kind partnership will pave the way for other US cities to establish a domestic sibling city relationship between geographically distant cities that will encourage bridge-building, good will and interconnectedness between all parts of our country.

This overview provides background information on Bloomington and Palo Alto, offers a rationale for why each city should choose the other as compared to other cities across the United States, explores the areas of potential engagement between Bloomington and Palo Alto, and introduces the organizational framework for developing the relationship.

The goal of the relationship is to promote cross-regional connection by 1) introducing opportunities to build understanding, respect, and friendship through the collaborative exploration of the culture, arts, community service, and unique attributes of each city; 2) promoting economic and business opportunities, including sustainability practices; and 3) engaging in respectful civil discourse about the issues that face our nation today. This program will involve both youth and adults in its interactions and exchanges.

**INTRODUCING BLOOMINGTON, INDIANA**

Bloomington is located in Monroe County in southern Indiana. It is Indiana’s sixth-largest city, with a population of 80,500. The demographics of the Bloomington population are White/Caucasian (92%), Asian (4%). African American (2%) and Hispanic (2%).

Bloomington is home to many young people; the median age is just 28 years. Moreover, the population is highly educated: over 90% have high school diplomas, and Monroe County ranks in the top 2.2% of counties nationwide in terms of education.

Not only is Bloomington home to Indiana University, it is also home to Ivy Tech Community College and numerous other scientific, technical, and professional establishments. The high level of education also contributes to a thriving workforce. Indiana University has numerous top-ranked programs, including its School of Music and Environmental Policy & Management graduate program.

The largest employers in Bloomington are Indiana University and Crane Naval Base. However, major employers in the area also include health care, technology, social services, and education.
In fact, 50% of Bloomington’s workforce is engaged in white-collar work, health care employment in Bloomington is six-times the national average, and Bloomington ranks #1 in high-tech employment among 124 small metropolitan cities.

Tourism is also a major employer in Bloomington. Bloomington has many tourist attractions including art galleries, museums, and cultural centers. Downtown Bloomington has active nightlife, great restaurants, shopping, and many family-friendly activities. One beloved Bloomington event is Food Truck Friday, where a variety of food trucks park at Switchyard Park every Friday from June to October, and participants enjoy food, live music, and other events such as balloon artists or body painting.

INTRODUCING PALO ALTO, CALIFORNIA

Palo Alto, named for a tree, has 40,000 city-owned trees providing canopy for its city streets. It currently has a population of 68,572 in Santa Clara county in the western part of the Bay Area, a contiguous urban area bounded on the west by foothills to the Coastal Range and on the east by the San Francisco Bay. It is the 135th largest city in California.

The demographics of the Palo Alto population are White/Caucasian (49.9%), Asian (35%). African American (1.8%) and Hispanic (7.4%). Over 50% of the population holds an advanced college degree.

Palo Alto was established in the late 1880s specifically to be the “college town” for the new Leland Stanford Junior University. Early professors became active in the development of the new town; especially notable were a few engineering faculty members who developed and promoted utility services that became the basis of Palo Alto’s municipal utility system.
Home to Stanford University and a top-ranked public school system, Palo Alto features beautiful and historic residential neighborhoods, including Professorville and one of the largest collections of Mid-Century Modern homes in the country, boasting 2700+ Eichler homes.

Known as the “Birthplace of Silicon Valley,” Palo Alto famously has been a hub of entrepreneurship and innovation. The corporate headquarters for many world-class companies and research facilities such as Hewlett-Packard and VMWare, and many other pillars of technology started in Palo Alto. Starting in the 1970’s Palo Altans have been on the leading edge of many environmental movements, continuing with an aggressive Greenhouse Gas (GHG) reduction goal. Entrepreneurship is in Palo Alto’s DNA.

The City of Palo Alto offers robust community amenities including 36 dedicated parks, a 2000-acre Baylands preserve and a 1400-acre Foothills preserve; 39 playgrounds, and 41 miles of walking/biking trails. Home to five community and youth centers, civic involvement by early residents such as Lucie Stern led to a 5-branch public library system including one of the nation's few stand-alone children's libraries; and several community centers providing recreational opportunities such as separate adult and children's theaters. The city also manages a regional airport.

Many community members are engaged in service clubs like Kiwanis and Rotary or in the Chamber of Commerce, countless non-profit organizations, and many local, politically active neighborhood organizations.

Palo Alto has a highly educated and culturally sophisticated citizenry that is actively engaged in making a difference both locally and globally. Traditional community events include a children’s May Fete parade, a July 4th chili cookoff, and a Moonlight Run in the Fall. On the weekend, in two commercial districts, farmers markets become another crosswalk of the community.

THREE PILLARS OF CONNECTION

The implementation of cooperative programs would start after a Sibling City relationship is formalized. Community leaders from Palo Alto would engage with their counterparts in Bloomington to mutually agree on activities. The discussion below recites some starting points and examples of connections that could be made in accordance with the Sibling Cities USA Three Pillars of Connection.

PILLAR ONE: Community Engagement
Arts and Culture, and Civic and Community Service are three areas that easily lend themselves to connecting with counterparts in each city, via electronics (zoom classes and lectures), or in-person, sharing commonalities and distinctions. As outlined below, opportunities include teen exchange programs, including summer camps and community service projects. Adult choirs, theater groups, and arts centers could explore and collaborate. Racial justice, LGBTQ, and environmental groups can share strategies and experiences. Rotary, Kiwanis, as well as grassroots organizations like Palo Alto Neighborhoods could share the ways they serve their communities, and operate with their stables of volunteers. Athletic endeavors like biking and pickleball could bring fun and safety advocacy to each city, as well as healthy competition.
Youth and Education
Opportunities abound for students and youth to learn about each other’s community and collaborate on projects and conduct community services together.

- High school student exchange programs could be developed
- Summer camps for high school students to visit the other community
- Classroom - joint lectures and/or classes on-line
- Arts - joint theatre productions, school newspaper editorials/columns swap, musical programs
- Community services – Palo Alto’s Youth Community Services – Make a Difference Day
- Technology - coding/programming and game designing
- Sports - train with and/or compete against teams in other city

Arts and Culture
Arts communities could explore and collaborate on similar programs; examples of Palo Alto groups and projects that might make connections:

- Neighbors Abroad Sustainability Art Project
- Adult Choirs and orchestras
- Theater Connections
- Cultural Kaleidoscope
- Art Center (classes, production, sales fairs), Pacific Art League, Code Art
- Percentage for Arts program

Civic and Community Service Organizations
Civic and community service organizations can connect to discover both commonalities and distinctions in their vast array of volunteers and activists, and what projects could be shared or even participated in by the other city.

- Rotary, Kiwanis and other established service organizations in both cities
- Grassroots community organizations; Palo Alto Neighborhoods
- Racial justice movements such as Black Lives Matter and Stop Asian Hate can connect with their counterparts to compare experiences, trade best practices, and consider ways to work together.
- Religious and inter-faith organizations can connect for joint services, discussion, and service projects.
- Athletics organizations that provide fun as well as safety advocacy (Palo Alto Run Club, Silicon Valley Bike Coalition, and Palo Alto Pickleball Club, for examples), exchange/compete teams
- As Palo Alto and Bloomington enter their domestic Sibling City relationship, there is an opportunity to introduce their respective new international sister city “cousins”. To the extent practicable, the international Sister Cities introduce a chance to share common programs that might extend to the domestic programs, such as in education and sustainability. Palo Alto, for example, has active international educational and sustainability collaborations that could be extended to Bloomington.

Parks/Environment/Open Space
Recognizing that open space is vital to healthy communities and valued by both cities, Palo Alto and Bloomington may mutually explore challenges and successes in managing it.
● Palo Alto has 3 open space preserves totaling 4,000 acres
● The two cities may compare and contrast sustaining wildlife habitats while encouraging active use
● Palo Alto’s Canopy, Earth Day, and Sierra Club organizations probably have counterparts in Bloomington

Smart Cities and Sustainability
The communities are mutually committed to efforts to promote environmental sustainability including the effects of climate change. Smart city approaches can be shared.
● University Towns
● Earth Day
● Curbside recycling
● Repair Cafe

PILLAR TWO: Economic and Business Collaboration

Bloomington and Palo Alto can explore economic and business collaboration that would drive equitable development, innovation, sustainability, and mutual prosperity in both places. Identifying workforce, capital, space, and other economic needs in the two regions could lead to areas of opportunity for cross-regional investment or other types of economic partnership. Strategies for meeting sustainability and climate goals, including the development of well-paying sustainability-related jobs, can be shared and developed.

Exploration of economic partnerships may include the following activities:
● Chambers of Commerce and Economic Development entities trade economic profiles, strengths, strategies and goals.
● Universities, colleges, and community colleges that provide workforce training, research collaboration, intellectual property licenses, and venture investment opportunities invited into discussions with economic actors in the other city.
● Venture, angel, and private equity investors given opportunities to accept pitches from and consider investment in businesses in the other city.

An educational overlay may also catalyze business interactions as programs like FIT and BEAM in Palo Alto would connect students through business across the communities.

PILLAR THREE: Public Policy Town Halls and Discussion

After residents of Bloomington and Palo Alto have developed friendship, mutual respect, and trust through the cultural exchanges and economic collaboration of Pillars One and Two, they will have an opportunity to discuss the nation’s challenging policy issues. Joint town halls and other types of meetings will provide opportunities to hear each other out in a respectful, safe, and open manner. These discussions will uncover shared values and gain insight into the reasons for differing perspectives and disagreement. The goal is to increase understanding that will foster empathy and ideas for better ways forward—together as a more united country. Several organizations have developed protocols for balanced and respectful policy dialogues on difficult topics that the two cities can use, including:
● Living Room Conversations
While we hope some city residents will be able to travel to the other city to participate in person, convening these dialogues online offers opportunities for easy and sustained remote conversation among residents of the two cities.

YEAR ONE PROGRAM GOALS AND ORGANIZATIONAL RELATIONSHIP

The first year will build on the commitments made by Palo Alto and Bloomington. City Coordinators in each city, as well as parallel local committees, would connect community organizations and build programs to spread the word and generate impact within each community. The committees would be authorized by each city, and ideally include representatives from the local government, service organizations and community leaders, as well as representatives of the universities in each city.

Palo Alto will implement this relationship through Neighbors Abroad of Palo Alto. The current Palo Alto committee will transition into an expanded Neighbors Abroad committee to administer the programs envisioned in this document.

Bloomington would form a steering committee to actively administer the program.

Mutual year one goals would include determining initial community kick-offs, an ongoing organizational structure, leadership, community marketing, social media presence, and funding. During the year, in-person visits are anticipated as relationships are richer when people meet face to face. We also expect to celebrate this innovative relationship, starting with a launch event and at appropriate points during the year.

The program would follow the Sibling Cities USA Three Pillars of Connection to form the foundation of the Bloomington-Palo Alto relationship.

- Pillar 1 Programs for Community Engagement
- Pillar 2 Programs for Economic and Business Collaboration
- Pillar 3 Programs for Public Policy Town Halls and Discussion

To ensure impact and improve the program, the committees would use Key Success Indicators to track and report both the extent of the connections we are forming and the nature of them. Key indicators would include the count of participants involved and the count of joint projects, as well as subjective measures. Initially, we expect to use post-event online surveys to gather data. As the program matures and resources allow, we hope to deploy professionally constructed tools to measure both quantitative factors and more qualitative measures of engagement.
The committees will report out at the one-year mark to each City Council identifying the progress and prospects for an ongoing program, as well as Key Indicators. We could also hold a joint council session once a year with our Bloomington counterparts.

Both cities have tapped city and community leaders to identify potential connections and develop programs to further the Sibling City relationship. Once the relationship between the cities is formalized, joint meetings of the program leaders in both Bloomington and Palo Alto may be established to allow for direct communication and collaboration.
Sibling Cities USA is a new non-profit organization that promotes unity in America by building deep relationships between US cities in different regions of the country. To help bridge regional and political divides, the program will facilitate the cross-regional pairing of cities or metropolitan areas (MSAs). A city or MSA from “the Coasts” might pair with one from “the Heartland,” or a city from a “blue state” with a city from a “red state.”

**Mission:** To promote national unity by increasing cultural understanding and respect, economic collaboration, and constructive political discourse among diverse cities through city-to-city relationships within the United States.

**Vision:** A United States of America with greater inter-regional understanding, respect, and cooperation across geographic, economic, racial, and political divides that leads to a more united, economically thriving, just, and equitable country.

**How:** Sibling Cities USA will facilitate the pairing of regionally diverse cities or MSAs and support their interaction. Sibling Cities USA will:

- Showcase each city’s unique heritage, culture, and attributes
- Explore common values and aspirations
- Build relationship, trust, and mutual respect
- Discover opportunities for economic collaboration
- Share and collaborate on best practices for city management and addressing civic issues
- Sponsor/foster public dialogue to build bridges across political, racial, and regional divides

**Background**

Calls for national unity are increasing in response to today’s ominous national divides. These divides have become a growing chasm between “red states” and “blue states” that threatens and tests the strength of our democracy. In his inaugural address, President Biden declared that we “must end this uncivil war.”

Knitting this country back together is essential, but will be neither easy nor quick. Coming together will require a focused, sustained, multi-faceted effort, supported at the highest level of our government. President Biden proclaimed that we “can do this if we open our souls instead of hardening our hearts.” Sibling Cities USA is designed to be a leader in this effort so that “disagreement does not lead to disunion.”

**Prior Presidential Action:** In 1956, in the perilous post-WW II environment, President Dwight D. Eisenhower held a White House conference on citizen diplomacy. With a goal of enlisting citizens to create a free and peaceful world, federally-backed People-to-People committees flourished, out of which grew Sister Cities International. SCI unites tens of thousands of citizen diplomats, volunteers, and civic leaders from nearly 500 member communities in more
than 140 countries.

In 1957, the Sister Cities program of the Civic Committee of People-to-People began collaborating with the National League of Cities, a partnership that continues today. In 1967, the Sister Cities program became the Town Affiliation Association of the United States (the predecessor to SCI) and in 1971, U.S. government relations with the Town Affiliation Association was transferred from the United States Information Agency to the Department of State under the Bureau of Educational and Cultural Affairs. Today, SCI is a nonpartisan 501(c)(3) nonprofit, serving as the national membership organization for individual sister cities across the United States.

President Eisenhower sought to lessen the chance of international conflict by helping people from different cultures celebrate their differences while building partnerships that would increase prosperity and understanding. Sibling Cities USA seeks a similar result right here at home.

Three Pillars of Connection

The purpose of pairing cities or MSAs from different regions having a range of political, economic and racial diversity, is to promote national unity by assisting America’s communities in recognizing:

- the assets that each community brings to the table,
- the synergies that come from building partnerships, and
- our commonalities as fellow Americans committed to the prosperity of our country and the success of our democracy.

To accomplish this, each Sibling Cities USA pair will engage in three types of interaction in accordance with the Sibling Cities USA Pillars of Connection:

**Pillar One:** Community Engagement: Education, Arts, and Culture

**Pillar Two:** Economic/Business Collaboration

**Pillar Three:** Public Policy Town Halls and Citizen Discussions

Pillar Three is best undertaken six to twelve months after activity under Pillars One and Two have begun and relationships are established between the two cities. Sibling Cities USA will assist each pair of cities/MSAs with setting up these interactions.

**Pillar I. Community Engagement: Education, Arts & Culture**

Initial outreach and exchange among the cities will be primarily cultural, social, and civic. Every city or region has its unique and distinguishing culture, history, and assets of which it is proud. Cultural interactions showcase these unique attributes and provide opportunities for the partner city to experience them, too, as residents enjoy getting to know each other. Examples include a signature food, an awe-inspiring vista, a renowned product (e.g., Napa Valley wine or Indiana limestone), a treasured park, local festivals/events (e.g., a Mariachi competition, a chili cook-off, a Black poetry reading, or a Chinese Lunar New Year celebration), or a famous entertainer, author, artist, historical figure or athlete who hails from the town.
The pandemic has caused us to become more comfortable with meeting virtually which opens up many new possibilities for sharing our community and civic life remotely. City residents could come together for online regional cooking classes, art and history lectures, or book clubs. Students could visit each other's classes, teachers in the two cities could team teach, and clubs could hold joint meetings. Religious leaders could do pulpit swaps or hold inter-regional interfaith services. The possibilities are many and are made easier by our new comfort with virtual meetings.

Civic organizations such as Rotary Club, PTA, League of Women Voters, and others would be invited to partner with Sibling Cities USA and connect their members in the two cities for joint events. Domestic student exchange programs could organize exchanges with partnering cities.

In parallel with cultural exchanges, city councils and city executives will have opportunities to discuss and compare issues they face. Common needs and interests will be discovered, as well as novel approaches and solutions. Councilmembers and city staff can share best practices, ideas, and resources for serving their communities and addressing local issues.

**Pillar II. Economic/Business Collaboration**

One of the best ways to Build Back Better and create a more united and equitable society is to expand economic opportunity across regional and racial lines. In addition, working together is one of the best ways for Sibling Cities USA residents to get to know one another. Each pair of cities will explore economic and business collaboration that would drive equitable development, innovation, sustainability, and mutual prosperity. Collaboration can fulfill workforce, space, and other unmet needs for areas with robust economies and attract business and investment to areas seeking growth, enhancing and even jump-starting local economies. City pairs can partner to develop strategies to meet the Administration's climate goals, including the development of well-paying sustainability-related jobs.

Exploration of economic partnerships may include the following activities:

- Chambers of Commerce trade economic profiles, strengths, and partnership opportunities
- Universities, colleges, and community colleges provide workforce training, research collaboration, intellectual property licenses, and venture investment opportunities
- Venture, angel, and private equity investors consider investment opportunities and accept pitches from the partner city/MSA.

An increasing number of organizations nationally are exploring cross-regional economic partnerships.

- More populous MSAs may offer relatively greater densities of a highly educated and professionally skilled workforce, investment capital, and business management experience
- Less populous MSAs can offer relatively more space for manufacturing or other large facilities, lower commercial rent, more affordable housing, and greater access to a higher standard of living

Accordingly, a large company might consider locating a new office, manufacturing facility, or remote work hub in the partner city. A technology company could consider a research collaboration with a university in the partner city. An investor might fund a start-up in the partner city.
The growing interest in investment opportunities in non-traditional geographic regions is evidenced by Revolution LLC, founded by AOL founder Steve Case and famous for its Rise of the Rest cross-country bus tours seeking investments in heartland cities. According to its website, Revolution

“now has two $150M Rise of the Rest Seed Funds to invest in seed stage companies outside of Silicon Valley, NY, and Boston (the first launched in 2017 and the second in fall of 2019), both backed by a group of iconic entrepreneurs, executives and investors including Jeff Bezos, Eric Schmidt, Ray Dalio, Meg Whitman, and Sara Blakely.”

An available blueprint for economic collaboration among diverse participants is Strategic Doing, that teaches how to form collaborations quickly and enables leaders to design and guide new networks that generate innovative solutions. This approach has led to sustained economic growth in Oklahoma City, Flint, Michigan, Charleston, South Carolina, and more.

The pandemic has made remote work more comfortable and more common. Expectations regarding worker proximity are unlikely to revert to pre-pandemic levels. This, too, opens up possibilities for inter-regional cooperation such as hiring talent from the partner city/MSA without requiring employees to move, and enabling talented people to return to their home regions to help those regions thrive.

New economic ventures provide opportunities for increasing diversity, equity, and inclusion, including in enterprises that are funded and staffed pursuant to collaborations instigated by Sibling Cities USA. Eliminating systemic bias in economic opportunity is a key part of the Sibling Cities USA vision. Partnering cities/MSAs will be expected to incorporate diversity, equity, and inclusion practices in their economic and business partnerships.

### Pillar III. Public Policy Town Halls & Discussions

After residents of the partner cities/MSAs have developed mutual respect, familiarity, and trust through cultural exchanges and economic collaboration, they are in an improved position to discuss the challenging policy issues that divide us. Accordingly, partnering cities will provide their residents opportunities to hear each other out on the issues facing our democracy in a respectful, safe, and open manner. Having dialogue on significant policy issues can uncover shared values and provide insight into the sources of differing perspectives and reasons for disagreement. This increased understanding will foster greater national empathy and thus catalyze ideas for better ways forward—together as a more united country.

Several organizations have developed a national network of local policy dialogues and may wish to partner with Sibling Cities USA, including:

- Braver Angels
- Living Room Conversations
- National Issues Forums

The pandemic has broken barriers to engaging remotely. While we hope some city residents will be able to travel to the partnering city, convening citizen dialogues online offers new opportunities for easy and sustained conversation among remote residents of partnering cities.

### Implementation
Pilot Program: A pilot program to establish proof of principle and inspire other cities to participate in Sibling Cities USA is under development. At present, Mayor Tom DuBois in Palo Alto, California (who independently conceived of a domestic sister city program) and Mayor John Hamilton in Bloomington, Indiana (who has been instrumental in developing this proposal), along with citizen leaders in each community, are planning for a Sibling Cities USA relationship. Learnings from their experience will help inform subsequent Sibling Cities relationships.

Advisory Board: Sibling Cities USA has assembled an Advisory Board of highly accomplished national leaders who bring deep experience in bridge-building, including

- Joan Blades, Co-Founder, Living Room Conversations
- Cornell William Brooks, Professor, Harvard Kennedy School and former President, NAACP
- Rob Fersh, Founder, Convergence Center for Policy Resolutions
- David Mathews, President, Kettering Foundation and former Secretary of HEW under President Ford
- Tim Quigley, President, Sister Cities International Foundation and former Board Chair, Sister Cities International
- Joan Williams, Professor, UC Hastings College of the Law and author, *White Working Class*

Pairing Cities: Guidelines will be developed for the pairing of cities and for fostering their interaction in accordance with the Three Pillars of Connection. These guidelines should be refined over time, based on the experiences of prior city pairs. Learnings will be curated at the national level on an ongoing basis and used to enhance Sibling Cities USA practices. Sibling Cities USA is eager to partner with other organizations to identify potential city pairings and is exploring collaborations with the National League of Cities, which has partnered with SCI since its early years, and the United States Conference of Mayors. City Councils would typically be asked to approve and endorse the Sibling City USA relationship.

Funding: Sibling Cities USA will seek to engage with the federal government and pursue grant support from, for example, the Commerce Department, similar to SCI’s grant support from the U.S. Department of State. Sibling Cities USA will also seek support from foundations and other grant makers.

Budget: Budgetary requirements would be modest, as most of the expenses would be for personnel and travel. Sibling Cities USA is designed to be a convenor that fosters relationships among local governments, civic organizations, economic development entities, schools, public interest groups, and more. Those organizations would organize and run their own events and projects. Ideally, Sibling Cities USA would provide modest grant support to participating cities so that cities are able to participate without causing undue strain on city budgets. Based on preliminary research, the annual budget for a national Sibling Cities USA program is not expected to exceed $5 million.

Conclusion

The need for unity is now -- our country longs to become more connected and to take renewed pride in America. Sibling Cities USA can help bridge our geographic, cultural, and economic divides, two communities at a time, to help us Build Back Better, healing our nation and restoring a common vision of our motto, *E Pluribus Unum.*
Note from the Author

I grew up in Indiana, went to law school in Washington, DC, and practiced law in New York City before settling in Palo Alto, California in 1992. This gave me a deep appreciation and respect for the differing assets of these regions and the good, decent, and talented Americans who live in each place. I am passionate about helping others see their fellow Americans as I do and have carefully crafted this Sibling Cities USA proposal to do just that.

I am eager to lead this program forward and foster its growth, including by establishing a national headquarters to facilitate, track and support Sibling Cities USA pairs, convene national partner organizations, liaise with both municipalities and the federal government, and expand the program.

~ Vicki Veenker

Vicki Veenker is an expert convenor whose unique experience with each of the Three Pillars led her to construct and champion this national Sibling Cities USA program. Both the International Trade Commission and the federal courts have appointed Vicki to their mediation panels. She served as the Managing Director, West Coast for Convergence Center for Policy Resolution, a national non-partisan non-profit that convenes policy leaders to find solutions to intractable issues. Her career as an accomplished Silicon Valley intellectual property attorney gives her unique insight into the innovation economy and economic development. As a founder and former General Counsel to Women’s Professional Soccer, Vicki has managed multiple entities working in cities across the country for a common purpose. Her first job was with the Kettering Foundation where she worked to increase the national network of grassroots convenors participating in the National Issues Forum.
October 27, 2021

Mayor DuBois and City Council Members,

Neighbors Abroad supports the Council pursuing a “sister city” relationship with Bloomington, Indiana. This support is extended based on a board resolution of Neighbors Abroad dated October 26, 2021. As may be requested by the City of Palo Alto, Neighbors Abroad is prepared to help facilitate the relationship consistent with our maintenance of other Sister City relationships.

In the 1960s, when Neighbors Abroad incorporated, our City and community founders anticipated this eventuality of both a United States as well as an international basis for “sister cities”. Within our incorporation documents one can view their anticipation:

“To encourage and foster friendly, neighborly relations and exchanges of ideas and culture with other community or communities within or outside the United States of America and with citizens and residents of such other community or communities.”

After a Council motion to support this new city relationship, Neighbors Abroad anticipates assimilating the current community planning committee as a new “sister city” committee. Neighbors Abroad has been active with the planning committee to help shape a program of activities. We anticipate affiliating with the Sibling Cities USA organization as we currently affiliate with Sister Cities International.

Neighbors Abroad would continue to support city staff in a manner consistent with our support for our international Sister Cities. Through a private donor, we anticipate updating the Sister City sign to reflect this new commitment to Bloomington. It is our goal to host and support the activities and discovery between Bloomington and Palo Alto to allow the development of neighborly relations and the exchange of ideas and culture as our founders anticipated, and compelled by the current need for domestic understanding across the United States.

Sincerely,

Neighbors Abroad

Bob Wenzlau
President
Meeting Date: 11/15/2021

Title: Review and Provide Direction to Staff on Terms of Lease between the City of Palo Alto and the Palo Alto History Museum for the ROTH Building (300 Homer Ave) (10:30 - 11:30 PM)

From: City Manager

Staff is actively in discussion with the Palo Alto History Museum regarding the lease terms for the ROTH Building (300 Homer Ave.). A staff report is expected to be distributed the week of November 8th for consideration at the November 15th Council meeting.
Schedule of Meetings
Published November 4, 2021

This is a courtesy notice only. Meeting dates, times, and locations are subject to change. 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.

Until further notice, all meetings except City Council Meetings will be held virtually.
City Council Meetings will be held in-person and virtually.

THURSDAY, NOVEMBER 4
Sp. Public Art Commission Meeting, 6 p.m.

MONDAY, NOVEMBER 8
Sp. City Council Meeting, 5 p.m.

TUESDAY, NOVEMBER 9
Sp. Policy & Services Committee Meeting, 6 p.m.

WEDNESDAY, NOVEMBER 10
Planning & Transportation Commission Meeting, 6 p.m.

MONDAY, NOVEMBER 15
Sp. City Council Meeting, 5 p.m.

TUESDAY, NOVEMBER 16
Sp. Finance Committee Meeting, 6 p.m. (CANCELLED)
Sp. City Council Meeting, 5 p.m. (Tentative)

WEDNESDAY, NOVEMBER 17
Sp. Parks & Recreation Commission Meeting, 7 p.m.

THURSDAY, NOVEMBER 18
City/School Liaison Committee Meeting, 8:30 a.m.
Architectural Review Board Meeting, 8:30 a.m.
Sp. Human Relations Commission Meeting, 6 p.m.
Public Art Commission Meeting, 7 p.m.

MONDAY, NOVEMBER 22 (CANCELLED DUE TO HOLIDAY)
City Council Meeting, 6 p.m.

WEDNESDAY, NOVEMBER 24
Planning & Transportation Commission Meeting, 6 p.m.

MONDAY, NOVEMBER 29
Sp. City Council Meeting, 5 p.m. (Tentative)

TUESDAY, NOVEMBER 30
Sp. Finance Committee Meeting, 6 p.m.

WEDNESDAY, DECEMBER 1
Sp. Utilities Advisory Commission Meeting, 5 p.m.

THURSDAY, DECEMBER 2
Architectural Review Board Meeting, 8:30 a.m.

Persons with disabilities who require auxiliary aids or services in using City facilities or programs, or who would like information on the City’s compliance with the Americans with Disabilities Act (ADA) of 1990, may contact ADA Coordinator, City of Palo Alto, 650-329-2550 (voice) or 329-1199 (TDD), ada@cityofpaloalto.org. Listening assistive devices are available in the Council Chambers. Sign language interpreters will be provided upon request with 72 hours advance notice. Please advise the City Clerk’s Office (650-329-2511) of meetings or changes by 3:00 p.m. on Wednesdays for inclusion in the following week’s schedule.
Supplemental Report – Item 10

Meeting Date: November 15, 2021

TO: City Council

From: Administrative Services Division

Title: Approval of an Exemption from Competitive Solicitation by Council Action per PAMC 2.30.330, and Approval of a Contract with Lew Edwards Group for one year and a not-to-exceed amount of $101,695, for Community Engagement and Ballot Measure Strategy and Preparation Services Relating to Potential Revenue-Generating November 2022 Ballot Measure

At the time of agenda publication, the enclosed contract was not available for inclusion as an attachment to the staff report.

Staff Recommends that the City Council include the attached contract as part of the consideration of the agenda item.
CITY OF PALO ALTO CONTRACT NO. C22183588

AGREEMENT FOR PROFESSIONAL SERVICES

BETWEEN THE CITY OF PALO ALTO AND THE LEW EDWARDS GROUP

This Agreement for Professional Services (this “Agreement”) is entered into as of the 15th day of November, 2021 (the “Effective Date”), by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and THE LEW EDWARDS GROUP, a California corporation, located at 5454 Broadway, Oakland, CA 94618 (“CONSULTANT”).

The following recitals are a substantive portion of this Agreement and are fully incorporated herein by this reference:

RECITALS

A. CITY intends to provide community engagement and ballot measure strategy and preparation (the “Project”) and desires to engage a consultant to provide consultation services in the development and coordination of the City’s ballot measure effort in connection with the Project (the “Services”, as detailed more fully in Exhibit A).

B. CONSULTANT represents that it, its employees and subconsultants, if any, possess the necessary professional expertise, qualifications, and capability, and all required licenses and/or certifications to provide the Services.

C. CITY, in reliance on these representations, desires to engage CONSULTANT to provide the Services as more fully described in Exhibit A, entitled “SCOPE OF SERVICES”.

NOW, THEREFORE, in consideration of the recitals, covenants, terms, and conditions, in this Agreement, the parties agree as follows:

SECTION 1. SCOPE OF SERVICES. CONSULTANT shall perform the Services described in Exhibit A in accordance with the terms and conditions contained in this Agreement. The performance of all Services shall be to the reasonable satisfaction of CITY.

SECTION 2. TERM. The term of this Agreement shall be from the date of its full execution through August 15, 2022 unless terminated earlier pursuant to Section 19 (Termination) of this Agreement.

SECTION 3. SCHEDULE OF PERFORMANCE. Time is of the essence in the performance of Services under this Agreement. CONSULTANT shall complete the Services within the term of this Agreement and in accordance with the schedule set forth in Exhibit B, entitled “SCHEDULE OF PERFORMANCE”. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by CONSULTANT in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the CONSULTANT. CITY’s agreement to extend the term or the schedule for performance shall not preclude recovery of damages for delay if the extension is required due to the fault of CONSULTANT.
SECTION 4. NOT TO EXCEED COMPENSATION. The compensation to be paid to CONSULTANT for performance of the Services shall be based on the compensation structure detailed in Exhibit C, entitled “COMPENSATION,” including any reimbursable expenses specified therein, and the maximum total compensation shall not exceed Ninety-Two Thousand Four Hundred Fifty Dollars ($92,450.00). The hourly schedule of rates, if applicable, is set out in Exhibit C-1, entitled “SCHEDULE OF RATES.” Any work performed or expenses incurred for which payment would result in a total exceeding the maximum compensation set forth in this Section 4 shall be at no cost to the CITY.

☑ Optional Additional Services Provision (This provision applies only if checked and a not-to-exceed compensation amount for Additional Services is allocated below under this Section 4.)

In addition to the not-to-exceed compensation specified above, CITY has set aside the not-to-exceed compensation amount of Nine Thousand Two Hundred Forty-Five Dollars ($9,245.00) for the performance of Additional Services (as defined below). The total compensation for performance of the Services, Additional Services and any reimbursable expenses specified in Exhibit C, shall not exceed One Hundred One Thousand Six Hundred Ninety-Five Dollars ($101,695.00), as detailed in Exhibit C.

“Additional Services” means 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. CITY may elect to, but is not required to, authorize Additional Services up to the maximum amount of compensation set forth for Additional Services in this Section 4. CONSULTANT shall provide Additional Services only by advanced, written authorization from CITY as detailed in this Section. Additional Services, if any, shall be authorized by CITY with a Task Order assigned and authorized by CITY’s Project Manager, as identified in Section 13 (Project Management). Each Task Order shall be in substantially the same form as Exhibit A-1, entitled “PROFESSIONAL SERVICES TASK ORDER”. Each Task Order shall contain a specific scope of services, schedule of performance and maximum compensation amount, in accordance with the provisions of this Agreement. Compensation for Additional Services shall be specified by CITY in the Task Order, based on whichever is lowest: the compensation structure set forth in Exhibit C, the hourly rates set forth in Exhibit C-1, or a negotiated lump sum.

To accept a Task Order, CONSULTANT shall sign the Task Order and return it to CITY’s Project Manager within the time specified by the Project Manager, and upon authorization by CITY (defined as counter-signature by the CITY Project Manager), the fully executed Task Order shall become part of this Agreement. The cumulative total compensation to CONSULTANT for all Task Orders authorized under this Agreement shall not exceed the amount of compensation set forth for Additional Services in this Section 4. CONSULTANT shall only be compensated for Additional Services performed under an authorized Task Order and only up to the maximum amount of compensation set forth for Additional Services in this Section 4. Performance of and payment for any Additional Services are subject to all requirements and restrictions in this Agreement.

SECTION 5. INVOICES. In order to request payment, CONSULTANT shall submit monthly
invoices to the CITY describing the Services performed and the applicable charges (including, if applicable, an identification of personnel who performed the Services, hours worked, hourly rates, and reimbursable expenses), based upon Exhibit C or, as applicable, CONSULTANT’s schedule of rates set forth in Exhibit C-1. If applicable, the invoice shall also describe the percentage of completion of each task. The information in CONSULTANT’s invoices shall be subject to verification by CITY. CONSULTANT shall send all invoices to CITY’s Project Manager at the address specified in Section 13 (Project Management) below. CITY will generally process and pay invoices within thirty (30) days of receipt of an acceptable invoice.

SECTION 6. QUALIFICATIONS/STANDARD OF CARE. All Services shall be performed by CONSULTANT or under CONSULTANT’s supervision. CONSULTANT represents that it, its employees and subcontractors, if any, possess the professional and technical personnel necessary to perform the Services required by this Agreement and that the personnel have sufficient skill and experience to perform the Services assigned to them. CONSULTANT represents that it, its employees and subcontractors, if any, have and shall maintain during the term of this Agreement all licenses, permits, qualifications, insurance and approvals of whatever nature that are legally required to perform the Services. All Services to be furnished by CONSULTANT under this Agreement shall meet the professional standard and quality that prevail among professionals in the same discipline and of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.

SECTION 7. COMPLIANCE WITH LAWS. CONSULTANT shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement, as amended from time to time. CONSULTANT shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

SECTION 8. ERRORS/OMISSIONS. CONSULTANT is solely responsible for costs, including, but not limited to, increases in the cost of Services, arising from or caused by CONSULTANT’s errors and omissions, including, but not limited to, the costs of corrections such errors and omissions, any change order markup costs, or costs arising from delay caused by the errors and omissions or unreasonable delay in correcting the errors and omissions.

SECTION 9. COST ESTIMATES. If this Agreement pertains to the design of a public works project, CONSULTANT shall submit estimates of probable construction costs at each phase of design submittal. If the total estimated construction cost at any submittal exceeds the CITY’s stated construction budget by ten percent (10%) or more, CONSULTANT shall make recommendations to CITY for aligning the Project design with the budget, incorporate CITY approved recommendations, and revise the design to meet the Project budget, at no additional cost to CITY.

SECTION 10. INDEPENDENT CONTRACTOR. CONSULTANT acknowledges and agrees that CONSULTANT and any agent or employee of CONSULTANT will act as and shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which CONSULTANT performs the Services requested by CITY under this Agreement. CONSULTANT and any agent or employee of CONSULTANT will not have employee status with CITY, nor be entitled to participate in any plans, arrangements, or distributions by CITY.
pertaining to or in connection with any retirement, health or other benefits that CITY may offer its employees. CONSULTANT will be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, workers’ compensation, unemployment compensation, insurance, and other similar responsibilities related to CONSULTANT’s performance of the Services, or any agent or employee of CONSULTANT providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between CITY and CONSULTANT or any agent or employee of CONSULTANT. Any terms in this Agreement referring to direction from CITY shall be construed as providing for direction as to policy and the result of CONSULTANT’s provision of the Services only, and not as to the means by which such a result is obtained.

SECTION 11. ASSIGNMENT. The parties agree that the expertise and experience of CONSULTANT are material considerations for this Agreement. CONSULTANT shall not assign or transfer any interest in this Agreement nor the performance of any of CONSULTANT’s obligations hereunder without the prior written approval of the City Manager. Any purported assignment made without the prior written approval of the City Manager will be void and without effect. Subject to the foregoing, the covenants, terms, conditions and provisions of this Agreement will apply to, and will bind, the heirs, successors, executors, administrators and assignees of the parties.

SECTION 12. SUBCONTRACTING.

☐ Option A: No Subcontractor: CONSULTANT shall not subcontract any portion of the Services to be performed under this Agreement without the prior written authorization of the City Manager or designee. In the event CONSULTANT does subcontract any portion of the work to be performed under this Agreement, CONSULTANT shall be fully responsible for all acts and omissions of subcontractors.

☒ Option B: Subcontracts Authorized: Notwithstanding Section 11 (Assignment) above, CITY agrees that subcontractors may be used to complete the Services. The subcontractors authorized by CITY to perform work on this Project are:

Public Dialogue Consortium (PDC)

CONSULTANT shall be responsible for directing the work of any subcontractors and for any compensation due to subcontractors. CITY assumes no responsibility whatsoever concerning compensation of subcontractors. CONSULTANT shall be fully responsible to CITY for all acts and omissions of subcontractors. CONSULTANT shall change or add subcontractors only with the prior written approval of the City Manager or designee.

SECTION 13. PROJECT MANAGEMENT. CONSULTANT will assign Catherine Lew as the CONSULTANT’s Project Manager to have supervisory responsibility for the performance, progress, and execution of the Services and represent CONSULTANT during the day-to-day performance of the Services. If circumstances cause the substitution of the CONSULTANT’s Project Manager or any other of CONSULTANT’s key personnel for any reason, the appointment of a substitute Project Manager and the assignment of any key new or replacement personnel will be subject to the prior written approval of the CITY’s Project Manager. CONSULTANT, at CITY’s request, shall promptly remove CONSULTANT personnel who CITY finds do not
perform the Services in an acceptable manner, are uncooperative, or present a threat to the adequate or timely completion of the Services or a threat to the safety of persons or property.

CITY’s Project Manager is Christine Paras, Administrative Services Department, Purchasing Division, 250 Hamilton Avenue Palo Alto, CA, 94301, Telephone: (650) 329-2486, Email: Christine.Paras@CityofPaloAlto.org. CITY’s Project Manager will be CONSULTANT’s point of contact with respect to performance, progress and execution of the Services. CITY may designate an alternate Project Manager from time to time.

**SECTION 14. OWNERSHIP OF MATERIALS.** All final work product, including without limitation, all writings, drawings, studies, sketches, photographs, plans, reports, specifications, computations, models, recordings, data, documents, and other materials and copyright interests developed under this Agreement, in any form or media, shall be and remain the exclusive property of CITY without restriction or limitation upon their use. This provision specifically excludes CONSULTANT’S working notes and drafts, which will be owned by CONSULTANT, provided however that CONSULTANT shall comply with the confidentiality obligations of this Agreement in relation to any such working notes and drafts and any CITY information contained therein. CONSULTANT agrees that all copyrights which arise from creation of the final work product pursuant to this Agreement are vested in CITY, and CONSULTANT hereby waives and relinquishes all claims to copyright or other intellectual property rights in favor of CITY. Neither CONSULTANT nor its subcontractors, if any, shall make any of such work product available to any individual or organization without the prior written approval of the City Manager or designee. CONSULTANT makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the Scope of Services.

**SECTION 15. AUDITS.** CONSULTANT agrees to permit CITY and its authorized representatives to audit, at any reasonable time during the term of this Agreement and for four (4) years from the date of final payment, CONSULTANT’s records pertaining to matters covered by this Agreement, including without limitation records demonstrating compliance with the requirements of Section 10 (Independent Contractor). CONSULTANT further agrees to maintain and retain accurate books and records in accordance with generally accepted accounting principles for at least four (4) years after the expiration or earlier termination of this Agreement or the completion of any audit hereunder, whichever is later.

**SECTION 16. INDEMNITY.**

[Option A applies to the following design professionals pursuant to Civil Code Section 2782.8: architects; landscape architects; registered professional engineers and licensed professional land surveyors.] 16.1. To the fullest extent permitted by law, CONSULTANT shall indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an “Indemnified Party”) from and against any and all third party demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorney’s fees, experts fees, court costs and disbursements (“Claims”) to the extent that such Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party. CITY will reimburse CONSULTANT for the proportionate percentage of defense costs exceeding CONSULTANT’s proportionate percentage of fault as determined by the
final judgment of a court of competent jurisdiction.

[Option B applies to any consultant who does not qualify as a design professional as defined in Civil Code Section 2782.8.] 16.1. To the fullest extent permitted by law, CONSULTANT shall indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an “Indemnified Party”) from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorney’s fees, experts fees, court costs and disbursements (“Claims”) resulting from, arising out of or in any manner related to performance or nonperformance by CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.

16.2. Notwithstanding the above, nothing in this Section 16 shall be construed to require CONSULTANT to indemnify an Indemnified Party from a Claim arising from the active negligence or willful misconduct of an Indemnified Party that is not contributed to by any act of, or by any omission to perform a duty imposed by law or agreement by, CONSULTANT, its officers, employees, agents or contractors under this Agreement.

16.3. The acceptance of CONSULTANT’s Services and duties by CITY shall not operate as a waiver of the right of indemnification. The provisions of this Section 16 shall survive the expiration or early termination of this Agreement.

SECTION 17. WAIVERS. No waiver of a condition or nonperformance of an obligation under this Agreement is effective unless it is in writing in accordance with Section 29.4 of this Agreement. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted shall apply solely to the specific instance expressly stated. No single or partial exercise of any right or remedy will preclude any other or further exercise of any right or remedy.

SECTION 18. INSURANCE.

18.1. CONSULTANT, at its sole cost and expense, shall obtain and maintain, in full force and effect during the term of this Agreement, the insurance coverage described in Exhibit D, entitled “INSURANCE REQUIREMENTS”. CONSULTANT and its contractors, if any, shall obtain a policy endorsement naming CITY as an additional insured under any general liability or automobile policy or policies.

18.2. All insurance coverage required hereunder shall be provided through carriers with AM Best’s Key Rating Guide ratings of A-:VII or higher which are licensed or authorized to transact insurance business in the State of California. Any and all contractors of CONSULTANT retained to perform Services under this Agreement will obtain and maintain, in full force and effect during the term of this Agreement, identical insurance coverage, naming CITY as an additional insured under such policies as required above.

18.3. Certificates evidencing such insurance shall be filed with CITY concurrently with the execution of this Agreement. The certificates will be subject to the approval of CITY’s Risk Manager and will contain an endorsement stating that the insurance is primary.
coverage and will not be canceled, or materially reduced in coverage or limits, by the insurer except after filing with the Purchasing Manager thirty (30) days’ prior written notice of the cancellation or modification. If the insurer cancels or modifies the insurance and provides less than thirty (30) days’ notice to CONSULTANT, CONSULTANT shall provide the Purchasing Manager written notice of the cancellation or modification within two (2) business days of the CONSULTANT’s receipt of such notice. CONSULTANT shall be responsible for ensuring that current certificates evidencing the insurance are provided to CITY’s Chief Procurement Officer during the entire term of this Agreement.

18.4. The procuring of such required policy or policies of insurance will not be construed to limit CONSULTANT’s liability hereunder nor to fulfill the indemnification provisions of this Agreement. Notwithstanding the policy or policies of insurance, CONSULTANT will be obligated for the full and total amount of any damage, injury, or loss caused by or directly arising as a result of the Services performed under this Agreement, including such damage, injury, or loss arising after the Agreement is terminated or the term has expired.

SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

19.1. The City Manager may suspend the performance of the Services, in whole or in part, or terminate this Agreement, with or without cause, by giving ten (10) days prior written notice thereof to CONSULTANT. If CONSULTANT fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided under this Agreement or at law, the City Manager may terminate this Agreement sooner upon written notice of termination. Upon receipt of any notice of suspension or termination, CONSULTANT will discontinue its performance of the Services on the effective date in the notice of suspension or termination.

19.2. In event of suspension or termination, CONSULTANT will deliver to the City Manager on or before the effective date in the notice of suspension or termination, any and all work product, as detailed in Section 14 (Ownership of Materials), whether or not completed, prepared by CONSULTANT or its contractors, if any, in the performance of this Agreement. Such work product is the property of CITY, as detailed in Section 14 (Ownership of Materials).

19.3. In event of suspension or termination, CONSULTANT will be paid for the Services rendered and work products delivered to CITY in accordance with the Scope of Services up to the effective date in the notice of suspension or termination; provided, however, if this Agreement is suspended or terminated on account of a default by CONSULTANT, CITY will be obligated to compensate CONSULTANT only for that portion of CONSULTANT’s Services provided in material conformity with this Agreement as such determination is made by the City Manager acting in the reasonable exercise of his/her discretion. The following Sections will survive any expiration or termination of this Agreement: 14, 15, 16, 17, 19.2, 19.3, 19.4, 20, 25, 27, 28, 29 and 30.

19.4. No payment, partial payment, acceptance, or partial acceptance by CITY will operate as a waiver on the part of CITY of any of its rights under this Agreement, unless made in accordance with Section 17 (Waivers).

SECTION 20. NOTICES.
All notices hereunder will be given in writing and mailed, postage prepaid, by certified mail, addressed as follows:

To CITY: Office of the City Clerk
City of Palo Alto
Post Office Box 10250
Palo Alto, CA 94303

With a copy to the Purchasing Manager

To CONSULTANT: Attention of the Project Manager at the address of CONSULTANT recited on the first page of this Agreement.

CONSULTANT shall provide written notice to CITY of any change of address.

SECTION 21. CONFLICT OF INTEREST.

21.1. In executing this Agreement, CONSULTANT 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 the Services.

21.2. CONSULTANT further covenants that, in the performance of this Agreement, it will not employ subcontractors or other persons or parties having such an interest. CONSULTANT certifies that no person who has or will have any financial interest under this Agreement is an officer or employee of CITY; this provision will be interpreted in accordance with the applicable provisions of the Palo Alto Municipal Code and the Government Code of the State of California, as amended from time to time. CONSULTANT agrees to notify CITY if any conflict arises.

21.3. If the CONSULTANT meets the definition of a “Consultant” as defined by the Regulations of the Fair Political Practices Commission, CONSULTANT will file the appropriate financial disclosure documents required by the Palo Alto Municipal Code and the Political Reform Act of 1974, as amended from time to time.

SECTION 22. NONDISCRIMINATION; COMPLIANCE WITH ADA.

22.1. As set forth in Palo Alto Municipal Code Section 2.30.510, as amended from time to time, CONSULTANT certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person due to that person’s race, skin color, gender, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, pregnancy, genetic information or condition, housing status, marital status, familial status, weight or height of such person. CONSULTANT 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.

22.2. CONSULTANT understands and agrees that pursuant to the Americans
Disabilities Act (“ADA”), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor or subcontractor, are required to be accessible to the disabled public. CONSULTANT will provide the Services specified in this Agreement in a manner that complies with the ADA and any other applicable federal, state and local disability rights laws and regulations, as amended from time to time. CONSULTANT will not discriminate against persons with disabilities in the provision of services, benefits or activities provided under this Agreement.

SECTION 23. ENVIRONMENTALLY PREFERRED PURCHASING AND ZERO WASTE REQUIREMENTS. CONSULTANT shall comply with the CITY’s Environmentally Preferred Purchasing policies which are available at CITY’s Purchasing Department, hereby incorporated by reference and as amended from time to time. CONSULTANT 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, CONSULTANT shall comply with the following Zero Waste requirements:

(a) All printed materials provided by CONSULTANT 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.

(b) Goods purchased by CONSULTANT 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 Department’s office.

(c) Reusable/returnable pallets shall be taken back by CONSULTANT, at no additional cost to CITY, for reuse or recycling. CONSULTANT shall provide documentation from the facility accepting the pallets to verify that pallets are not being disposed.

SECTION 24. COMPLIANCE WITH PALO ALTO MINIMUM WAGE ORDINANCE. CONSULTANT shall comply with all requirements of the Palo Alto Municipal Code Chapter 4.62 (Citywide Minimum Wage), as 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, CONSULTANT shall pay such employees no less than the minimum wage set forth in Palo Alto Municipal Code Section 4.62.030 for each hour worked within the geographic boundaries of the City of Palo Alto. In addition, CONSULTANT shall post notices regarding the Palo Alto Minimum Wage Ordinance in accordance with Palo Alto Municipal Code Section 4.62.060.

SECTION 25. 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, as amended from time to time. 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.
SECTION 26. PREVAILING WAGES AND DIR REGISTRATION FOR PUBLIC WORKS CONTRACTS.

26.1. This Project is not subject to prevailing wages and related requirements. CONSULTANT is not required to pay prevailing wages and meet related requirements under the California Labor Code and California Code of Regulations in the performance and implementation of the Project if the contract:

(1) is not a public works contract;
(2) is for a public works construction project of $25,000 or less, per California Labor Code Sections 1782(d)(1), 1725.5(f) and 1773.3(j); or
(3) is for a public works alteration, demolition, repair, or maintenance project of $15,000 or less, per California Labor Code Sections 1782(d)(1), 1725.5(f) and 1773.3(j).

OR

26.1. This Project is subject to prevailing wages and related requirements as a “public works” under California Labor Code Sections 1720 et seq. and related regulations. CONSULTANT is required to pay general prevailing wages as defined in California Labor Code Section 1773.1 and Subchapter 3, Title 8 of the California Code of Regulations Section 16000 et seq., as amended from time to time. Pursuant to Labor Code Section 1773, the CITY 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 contract for this Project from the State of California Department of Industrial Relations (“DIR”). Copies of these rates may be obtained at the CITY’s Purchasing Department office. The general prevailing wage rates are also available at the DIR, Division of Labor Statistics and Research, web site (see e.g. http://www.dir.ca.gov/DLSR/PWD/index.htm) as amended from time to time. CONSULTANT shall post a copy of the general prevailing wage rates at all Project job sites and shall pay the adopted prevailing wage rates as a minimum. CONSULTANT shall comply with all applicable provisions of Division 2, Part 7, Chapter 1 of the California Labor Code (Labor Code Section 1720 et seq.), including but not limited to Sections 1725.5, 1771, 1771.1, 1771.4, 1773.2, 1774, 1775, 1776, 1777.5, 1782, 1810, 1813 and 1815, and all applicable implementing regulations, including but not limited to Subchapter 3, Title 8 of the California Code of Regulations Section 16000 et seq. (8 CCR Section 16000 et seq.), as amended from time to time. CONSULTANT shall comply with the requirements of Exhibit E, entitled “DIR REGISTRATION FOR PUBLIC WORKS CONTRACTS”, for any contract for public works construction, alteration, demolition, repair or maintenance, including but not limited to the obligations to register with, and furnish certified payroll records directly to, DIR.

SECTION 27. CLAIMS PROCEDURE FOR “9204 PUBLIC WORKS PROJECTS”. For purposes of this Section 27, 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. (Cal. Pub. Cont. Code § 9204.) Per California Public Contract Code Section 9204, for Public Works Projects, certain claims procedures shall apply, as set forth in Exhibit F, entitled “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 Exhibit F, entitled “Claims for Public Contract Code Section 9204
Public Works Projects”.

OR

☒ This Project is not a 9204 Public Works Project.

SECTION 28. CONFIDENTIAL INFORMATION.

28.1. In the performance of this Agreement, CONSULTANT may have access to CITY’s Confidential Information (defined below). CONSULTANT will hold Confidential Information in strict confidence, not disclose it to any third party, and will use it only for the performance of its obligations to CITY under this Agreement and for no other purpose. CONSULTANT will maintain reasonable and appropriate administrative, technical and physical safeguards to ensure the security, confidentiality and integrity of the Confidential Information. Notwithstanding the foregoing, CONSULTANT may disclose Confidential Information to its employees, agents and subcontractors, if any, to the extent they have a need to know in order to perform CONSULTANT’s obligations to CITY under this Agreement and for no other purpose, provided that the CONSULTANT informs them of, and requires them to follow, the confidentiality and security obligations of this Agreement.

28.2. “Confidential Information” means all data, information (including without limitation “Personal Information” about a California resident as defined in Civil Code Section 1798 et seq., as amended from time to time) and materials, in any form or media, tangible or intangible, provided or otherwise made available to CONSULTANT by CITY, directly or indirectly, pursuant to this Agreement. Confidential Information excludes information that CONSULTANT can show by appropriate documentation: (i) was publicly known at the time it was provided or has subsequently become publicly known other than by a breach of this Agreement; (ii) was rightfully in CONSULTANT’s possession free of any obligation of confidence prior to receipt of Confidential Information; (iii) is rightfully obtained by CONSULTANT from a third party without breach of any confidentiality obligation; (iv) is independently developed by employees of CONSULTANT without any use of or access to the Confidential Information; or (v) CONSULTANT has written consent to disclose signed by an authorized representative of CITY.

28.3. Notwithstanding the foregoing, CONSULTANT may disclose Confidential Information to the extent required by order of a court of competent jurisdiction or governmental body, provided that CONSULTANT will notify CITY in writing of such order immediately upon receipt and prior to any such disclosure (unless CONSULTANT is prohibited by law from doing so), to give CITY an opportunity to oppose or otherwise respond to such order.

28.4. CONSULTANT will notify City promptly upon learning of any breach in the security of its systems or unauthorized disclosure of, or access to, Confidential Information in its possession or control, and if such Confidential Information consists of Personal Information, CONSULTANT will provide information to CITY sufficient to meet the notice requirements of Civil Code Section 1798 et seq., as applicable, as amended from time to time.

28.5. Prior to or upon termination or expiration of this Agreement, CONSULTANT will honor any request from the CITY to return or securely destroy all copies of
Confidential Information. All Confidential Information is and will remain the property of the CITY and nothing contained in this Agreement grants or confers any rights to such Confidential Information on CONSULTANT.

28.6. If selected in Section 30 (Exhibits), this Agreement is also subject to the terms and conditions of the Information Privacy Policy and Cybersecurity Terms and Conditions.

SECTION 29. MISCELLANEOUS PROVISIONS.

29.1. This Agreement will be governed by California law, without regard to its conflict of law provisions.

29.2. In the event that an action is brought, the parties agree that trial of such action will be vested exclusively in the state courts of California in the County of Santa Clara, State of California.

29.3. The prevailing party in any action brought to enforce the provisions of this Agreement may recover its reasonable costs and attorneys’ fees expended in connection with that action. The prevailing party shall be entitled to recover an amount equal to the fair market value of legal services provided by attorneys employed by it as well as any attorneys’ fees paid to third parties.

29.4. This Agreement, including all exhibits, constitutes the entire and integrated agreement between the parties with respect to the subject matter of this Agreement, and supersedes all prior agreements, negotiations, representations, statements and undertakings, either oral or written. This Agreement may be amended only by a written instrument, which is signed by the authorized representatives of the parties and approved as required under Palo Alto Municipal Code, as amended from time to time.

29.5. If a court of competent jurisdiction finds or rules that any provision of this Agreement is void or unenforceable, the unaffected provisions of this Agreement will remain in full force and effect.

29.6. In the event of a conflict between the terms of this Agreement and the exhibits hereto (per Section 30) or CONSULTANT’s proposal (if any), the Agreement shall control. In the event of a conflict between the exhibits hereto and CONSULTANT’s proposal (if any), the exhibits shall control.

29.7. The provisions of all checked boxes in this Agreement shall apply to this Agreement; the provisions of any unchecked boxes shall not apply to this Agreement.

29.8. All section headings contained in this Agreement are for convenience and reference only and are not intended to define or limit the scope of any provision of this Agreement.

29.9. This Agreement may be signed in multiple counterparts, which, when executed by the authorized representatives of the parties, shall together constitute a single binding agreement.
SECTION 30. EXHIBITS. Each of the following exhibits, if the check box for such exhibit is selected below, is hereby attached and incorporated into this Agreement by reference as though fully set forth herein:

☐ EXHIBIT A: SCOPE OF SERVICES
☐ EXHIBIT A-1: PROFESSIONAL SERVICES TASK ORDER
☐ EXHIBIT B: SCHEDULE OF PERFORMANCE
☐ EXHIBIT C: COMPENSATION
☐ EXHIBIT C-1: SCHEDULE OF RATES
☐ EXHIBIT D: INSURANCE REQUIREMENTS

THIS AGREEMENT IS NOT COMPLETE UNLESS ALL SELECTED EXHIBITS ARE ATTACHED.

(SIGNATURE BLOCK FollowS ON THE NEXT PAGE.)
IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement as of the date first above written.

CITY OF PALO ALTO

____________________________
City Manager

APPROVED AS TO FORM:

____________________________
City Attorney or designee

THE LEW EDWARDS GROUP

Officer 1

By: _______________________
Name: Catherine Lew
Title: President/Principal

Officer 2

By: _______________________
Name: Lloyd A. Edwards
Title: Secretary-Treasurer
EXHIBIT A
SCOPE OF SERVICES

CONSULTANT shall provide the Services detailed in this Exhibit A, entitled “SCOPE OF SERVICES”.

CONSULTANT shall provide community engagement and ballot measure strategy and preparation for the CITY’s potential revenue generating ballot measure(s).

TASK 1: CONSULTING COMMUNICATION SERVICES

Subtask 1.1: Public Engagement
Following assessment of the CITY’s updated quantitative opinion research, CONSULTANT shall develop Strategic Recommendations and a Plan. CONSULTANT shall assist the CITY in developing verbiage for appropriate engagement and communications materials in order to deliver and saturate the CITY’s informational message. The CONSULTANT will also create text for links on the CITY’s website and develop an informational PowerPoint Presentation to include on the CITY’s website and to be used by the Speakers’ Bureau Program, Stakeholders, and Key Influential CITY members for Community Presentations. CONSULTANT shall collaborate closely with PDC (SUBCONTRACTOR) on these elements and provide first drafts of communications toolkit materials for the review and approval by the CITY.

Specific deliverables and/or work tasks include, but are not limited to, reviewing current CITY budget and planning materials, providing strategic recommendations for community engagement, working with CITY staff on methods to engage constituents, expanding community awareness of policy, fiscal service needs, soliciting additional community input on proposal/vision, and assisting with rapid response needs from the community.

Subtask 1.2: Strategize Communication Goals
CONSULTANT shall develop communication strategy to effectively solicit input, respond to questions from the community, and inform the public. CONSULTANT shall provide structure and effective communications outreach content to educate the public and business stakeholders about the CITY’s needs, the CITY’s Fiscal Sustainability vision, and the CITY services at stake.

Specific deliverables and/or work tasks include, but are not limited, facilitating and updating a coordinated strategy and timeline for Project, independently analyzing survey results, recommending to staff methods of engaging/informing constituents about Project in CITY communication vehicles (including newsletters, guest columns, and website digital/online), advising CITY of viability and feasibility of any potential ballot measures, and confirming with CITY Attorney on measure components.

Subtask 1.3: Message Development
CONSULTANT’s Project collaboration will have the goal of informing the public and raising awareness of the CITY’s current quality of life vision and fiscal sustainability needs. “Message Discipline” and a clear, concise focus are critical to Project viability and effective outreach efforts. CONSULTANT must ensure that the community and business stakeholders are engaged, creating two-way and collaborative dialogue with the Public and Stakeholders. In addition,
CONSULTANT shall assist in development and review of public media information or adding value for these materials.

Specific deliverables and/or work tasks include, but are not limited, reviewing archival files and information about the City of Palo Alto, auditing pertinent CITY issues/media coverage in the public arena, adding value to design and updated studies by CITY’s designated public opinion research, drafting public message/engagement platform, message training for CITY staff and service providers, and working with CITY Staff on related staff reports and measure development, assisting in the development and review of copy for selected communication, collaterals, such as FAQs, web content, mailings utility inserts, digital/online vehicles and other materials (paid digital costs are not included within this agreement; CITY to design, print and mail other collaterals using its own vendors).

TASK 2: MEETING FACILITATION AND ENGAGEMENT SERVICES

Subtask 2.1: Stakeholder Engagement
PDC will lead Stakeholder Outreach, Focus Groups and Qualitative Online Surveys. PDC will develop a community stakeholder engagement process and design meeting questions, materials, and agendas; work with CONSULTANT to ensure alignment to FAIRBANK, MASLIN, MAULLIN, METZ, & ASSOCIATES INC (FM3’s) quantitative public opinion poll. This includes facilitating stakeholder focus groups with the Palo Alto business community (groups, organizations, and individuals) so the CITY’s potential revenue generating ballot measure can be discussed as well as facilitate focus groups for the Palo Alto public-at-large (groups, organizations, and individuals). Build on the feedback provided by voters through FM3’s quantitative baseline study by developing and administering an online, qualitative engagement survey to enable the broader community to provide input parallel to the stakeholder focus groups.

Specific deliverables and/or work tasks include, but are not limited to, updating the CITY on Best Practices currently being utilized in other cities for similar projects, analyzing and documenting focus group meetings and online survey results and developing Council updates, supporting facilitated focus groups/meetings/selected high level stakeholder engagement working with PDC, providing recommendations to proposed CITY budget reports, presentations or documents, participating in selected CITY briefing and planning sessions related to budget adoption to maximize messaging, assisting in rapid response needs from media, correcting misinformation or clarifying confusing information (not as spokesperson for CITY).

CONSULTANT shall assist in drafting information or adding value for social media and advise the CITY on how to navigate independent or third-party sites such as blog.

Deliverables associated with the Services detailed above:
Deliverables associated with the Services to be provided, as detailed above, will be determined and agreed upon between the City and the Consultant as Tasks 1 and 2 (and any Additional Services approved as detailed in this Agreement) are completed.
EXHIBIT A-1
PROFESSIONAL SERVICES TASK ORDER

CONSULTANT shall perform the Services detailed below in accordance with all the terms and conditions of the Agreement referenced in Item 1A below. All exhibits referenced in Item 8 are incorporated into this Task Order by this reference. CONSULTANT shall furnish the necessary facilities, professional, technical and supporting personnel required by this Task Order as described below.

CONTRACT NO.
OR PURCHASE ORDER REQUISITION NO. (AS APPLICABLE)

1A. MASTER AGREEMENT NO. (MAY BE SAME AS CONTRACT / P.O. NO. ABOVE):
1B. TASK ORDER NO.:
2. CONSULTANT NAME:
3. PERIOD OF PERFORMANCE: START: COMPLETION:
4. TOTAL TASK ORDER PRICE: $_______________
   BALANCE REMAINING IN MASTER AGREEMENT/CONTRACT $_______________
5. BUDGET CODE________________
   COST CENTER________________
   COST ELEMENT______________
   WBS/CIP________________
   PHASE______________
6. CITY PROJECT MANAGER’S NAME & DEPARTMENT: ______________________________________
7. DESCRIPTION OF SCOPE OF SERVICES (Attachment A)
   MUST INCLUDE:
   ▪ SERVICES AND DELIVERABLES TO BE PROVIDED
   ▪ SCHEDULE OF PERFORMANCE
   ▪ MAXIMUM COMPENSATION AMOUNT AND RATE SCHEDULE (as applicable)
   ▪ REIMBURSABLE EXPENSES, if any (with “not to exceed” amount)
8. ATTACHMENTS: A: Task Order Scope of Services B (if any): ________________________________

I hereby authorize the performance of the work described in this Task Order. I hereby acknowledge receipt and acceptance of this Task Order and warrant that I have authority to sign on behalf of Consultant.

APPROVED: CITY OF PALO ALTO APPROVED: COMPANY NAME: ________________________
BY: ________________________ BY: ________________________
Name ________________________ Name ________________________
Title ________________________ Title ________________________
Date ________________________ Date ________________________
EXHIBIT B
SCHEDULE OF PERFORMANCE

CONSULTANT shall perform the Services so as to complete each milestone within the timeline specified below. The time to complete each milestone may be increased or decreased by mutual written agreement of the Project Managers for CONSULTANT and CITY so long as all work is completed within the term of the Agreement. CONSULTANT shall provide a detailed schedule of work consistent with the schedule below within 2 weeks of receipt of the notice to proceed (“NTP”) from the CITY.

<table>
<thead>
<tr>
<th>Milestones/Tasks</th>
<th>Completion Timeline from NTP</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Task 1: Consulting Communication Services</strong></td>
<td></td>
</tr>
<tr>
<td>Subtask 1.3: Message Development</td>
<td>November 2021 – December 2021</td>
</tr>
<tr>
<td>Subtask 1.1: Public Engagement</td>
<td>January 2022</td>
</tr>
<tr>
<td>Subtask 1.2: Strategize Communication Goals</td>
<td>June 2022 – August 2022</td>
</tr>
<tr>
<td><strong>Task 2: Meeting Facilitation and Engagement Services</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>January 2022 – June 2022</td>
</tr>
</tbody>
</table>

CONSULTANT shall perform the Services as specified in Exhibit “A” Scope of Services during the Term defined in Section 2 of this Agreement.

☑ Optional Schedule of Performance Provision for On-Call or Additional Services Agreements. (This provision only applies if checked and only applies to on-call agreements per Section 1 or agreements with Additional Services per Section 4.)

The schedule of performance shall be as provided in the approved Task Order, as detailed in Section 1 (Scope of Services) in the case of on-call Services, or as detailed in Section 4 in the case of Additional Services, provided in all cases that the schedule of performance shall fall within the term as provided in Section 2 (Term) of this Agreement.
EXHIBIT C
COMPENSATION

CITY agrees to compensate CONSULTANT for Services performed in accordance with the terms and conditions of this Agreement, and as set forth in the budget schedule below. Compensation shall be calculated based on the schedule of rates attached as Exhibit C-1 up to the not to exceed budget amount for each task set forth below.

CITY’s Project Manager may approve in writing the transfer of budget amounts between any of the tasks or categories listed below, provided that the total compensation for the Services, including any specified reimbursable expenses, and the total compensation for Additional Services (if any, per Section 4 of the Agreement) do not exceed the amounts set forth in Section 4 of this Agreement.

CONSULTANT agrees to complete all Services, any specified reimbursable expenses, and Additional Services (if any, per Section 4), within this/these amount(s). Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth in this Agreement shall be at no cost to the CITY.

BUDGET SCHEDULE

<table>
<thead>
<tr>
<th>TASK</th>
<th>NOT TO EXCEED AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1 (Consulting Communication Services)</td>
<td>$67,500</td>
</tr>
<tr>
<td>Task 2 (Meeting Facilitation and Engagement Services)</td>
<td>$24,950</td>
</tr>
<tr>
<td>Sub-total for Services</td>
<td>$92,450.00</td>
</tr>
<tr>
<td>Reimbursable Expenses (if any)</td>
<td>$0</td>
</tr>
<tr>
<td>Total for Services and Reimbursable Expenses</td>
<td>$92,450.00</td>
</tr>
<tr>
<td>Additional Services (if any, per Section 4)</td>
<td>$9,245.00</td>
</tr>
<tr>
<td>Maximum Total Compensation</td>
<td>$101,695.00</td>
</tr>
</tbody>
</table>

REIMBURSABLE EXPENSES

CONSULTANT’S ordinary business expenses, such as administrative, overhead, administrative support time/overtime, information systems, software and hardware, photocopying, telecommunications (telephone, internet), in-house printing, insurance and other ordinary business expenses, are included within the scope of payment for Services and are not reimbursable expenses hereunder.

Reimbursable expenses, if any are specified as reimbursable under this section, will be reimbursed at actual cost. The expenses (by type, e.g. travel) for which CONSULTANT will be reimbursed are: NONE up to the not-to-exceed amount of: $0.00.
EXHIBIT C-1
SCHEDULE OF RATES

CONSULTANT’s schedule of rates is as follows:

For CONSULTANT’s Lead Consulting/Communications services, a professional fee of Seven Thousand Five Hundred Dollars ($7,500.00) per month.

For meeting facilitation and high-level stakeholder engagement services provided by CONSULTANT’s subcontractor listed in this Agreement, the hourly rate is up to Two Hundred Fifty Dollars ($250.00) an hour, not to exceed Twenty-Four Thousand Nine Hundred Fifty Dollars ($24,950). This budget typically permits for preparation, facilitation and reporting for up to ten (10) stakeholder or community engagement sessions in a focus group format. The actual number of focus groups is dependent on Project needs and time expended per group. Invoicing for this line item will be on an expended per hour basis.

Professional fees are due and payable in accordance with Section 5 (Invoices) of this Agreement.

Professional fees do not include other hard Project costs such as opinion research, graphic design, translation, printing, bulk postage, mail house processing fees, or digital media buys, which will be budgeted for separately by the CITY throughout the Project, and if such costs are to be funded pursuant to this Agreement, they will be added as Additional Services via Task Order as detailed in Section 4 (Not to Exceed Compensation) or via an amendment to this Agreement pursuant to Section 29.4 herein. CONSULTANT shall advise the level of investment necessary following review of community survey results, and those costs shall be in addition to the fees and costs specified in this Agreement.
EXHIBIT D
INSURANCE REQUIREMENTS

CONSULTANTS 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 HEREIN.

<table>
<thead>
<tr>
<th>REQUIRED</th>
<th>TYPE OF COVERAGE</th>
<th>REQUIREMENT</th>
<th>MINIMUM LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>EACH OCCURRENCE</td>
<td>AGGREGATE</td>
</tr>
<tr>
<td>YES YES</td>
<td>WORKER’S COMPENSATION</td>
<td>STATUTORY</td>
<td>STATUTORY</td>
</tr>
<tr>
<td></td>
<td>EMPLOYER’S LIABILITY</td>
<td></td>
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<tr>
<td>YES</td>
<td>GENERAL LIABILITY, INCLUDING</td>
<td>BODILY INJURY</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td>PERSONAL INJURY, BROAD FORM</td>
<td>BODILY INJURY &amp; PROPERTY</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td>PROPERTY DAMAGE BLANKET</td>
<td>DAMAGE COMBINED.</td>
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<tr>
<td></td>
<td>CONTRACTUAL, AND FIRE LEGAL</td>
<td></td>
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<tr>
<td></td>
<td>LIABILITY</td>
<td></td>
<td></td>
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<tr>
<td>YES</td>
<td>AUTOMOBILE LIABILITY,</td>
<td>BODILY INJURY AND PROPERTY</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td>INCLUDING ALL OWNED, HIRED,</td>
<td>DAMAGE, COMBINED</td>
<td></td>
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<tr>
<td></td>
<td>NON-OWNED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NO</td>
<td>PROFESSIONAL LIABILITY,</td>
<td>ALL DAMAGES</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td>INCLUDING, ERRORS AND</td>
<td></td>
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<td></td>
<td>OMISSIONS, MALPRACTICE (WHEN</td>
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<td></td>
<td>APPLICABLE), AND NEGLIGENT</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>PERFORMANCE</td>
<td></td>
<td></td>
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<tr>
<td>YES</td>
<td>THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>CONSULTANT, AT ITS SOLE COST</td>
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<tr>
<td></td>
<td>AND EXPENSE, SHALL OBTAIN AND MAINTAIN, IN FULL FORCE AND EFFECT</td>
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<td></td>
<td>THROUGHOUT THE ENTIRE TERM</td>
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<tr>
<td></td>
<td>OF ANY RESULTANT AGREEMENT, THE INSURANCE COVERAGE HEREIN DESCRIBED, INSURING NOT ONLY</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>CONSULTANT AND ITS SUBCONSULTANTS, IF ANY, BUT ALSO, WITH THE EXCEPTION OF WORKERS’</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>COMPENSATION, EMPLOYER’S LIABILITY AND PROFESSIONAL INSURANCE, NAMING AS ADDITIONAL</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>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 CONSULTANT’S AGREEMENT TO INDEMNIFY CITY.

II. THE CONSULTANT 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.

Professional Services
Rev. Dec.15, 2020
B. CROSS LIABILITY

THE NAMING OF MORE THAN ONE PERSON, FIRM, OR CORPORATION AS INSURED 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 INSURED, 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 CONSULTANT 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 CONSULTANT SHALL PROVIDE CITY AT LEAST A TEN (10) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

EVIDENCE OF INSURANCE AND OTHER RELATED NOTICES ARE REQUIRED TO BE FILED 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
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
License # 0K07568
Cumbre Insurance Services, LLC
3110 E. Guasti Road
Suite 500
Ontario, CA 91761

CONTACT NAME: Gail Hodges
PHONE: (A/C, No, Ext): (707) 992-3743
FAX: (A/C, No): (909) 484-2491
E-MAIL ADDRESS: hodgesg@cumbreins.com

CERTIFICATE NUMBER: W16B2B210801

COVERAGES

<table>
<thead>
<tr>
<th>INSURER (A)</th>
<th>LIABILITY</th>
<th>LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Underwriters at Lloyd's, London</td>
<td>BODILY INJURY (Per person)</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>Republic Indemnity Company of America</td>
<td>PERSONAL &amp; ADV INJURY</td>
<td>$5,000</td>
</tr>
<tr>
<td>Lloyd's</td>
<td>MEDICAL (Any one person)</td>
<td>$1,000,000</td>
</tr>
</tbody>
</table>

COV. # | TYPE OF INSURANCE | LIMITS |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>COMMERCIAL GENERAL LIABILITY</td>
<td>EACH OCCURRENCE: $2,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>DAMAGE TO RENTAL PREMISES (PA occurrence): $100,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>MEDICAL (Any one person): $5,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PERSONAL &amp; ADV INJURY: $5,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>GENERAL AGGREGATE: $2,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PRODUCTS - COMM/OP AGG: $5,000</td>
</tr>
</tbody>
</table>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CITY OF PALO ALTO, ITS COUNCIL, MEMBERS, OFFICERS, AGENTS AND EMPLOYEES ARE HEREBY NAMED AS ADDITIONAL INSURED'S WITH RESPECTS TO LIABILITY ARISING FROM THE NAMED INSURED'S OPERATIONS PER BW 000 859 08 2012, COVERAGE IS PRIMARY AND NON-CONTRIBUTORY PER BW 001 397 1004. AUTOMOBILE ADDITIONAL INSURED AND PRIMARY PER MCA 85100817. ADDITIONAL INSURED IS GRANTED A 30 DAY NOTICE OF CANCELLATION WITH THE EXCEPTION OF A 10 DAY NOTICE FOR NON-PAYMENT OF PREMIUM

CERTIFICATE HOLDER

City of Palo Alto
PO Box 10250
Palo Alto, CA 94303

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Gail Hodges

Packet Pg. 207
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED — OWNERS, LESSEES OR CONTRACTORS — SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

SCHEDULE

<table>
<thead>
<tr>
<th>Name of Additional Insured Person(s) or Organization(s):</th>
<th>Location(s) of Covered Operations</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANY PERSON OR ORGANIZATION AS REQUIRED BY WRITTEN CONTRACT WITH THE INSURED</td>
<td>LOCATIONS AS REQUIRED BY WRITTEN CONTRACT</td>
</tr>
</tbody>
</table>

A. SECTION II—WHO IS AN INSURED is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such a person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

Additional Insured Contractual Liability
"Bodily injury" or "property damage" for which the "additional insured(s)" are obligated to pay damages by reason of the assumption of liability in a contract or agreement.

Finished Operations or Work
"Bodily injury" or "property damage" occurring after:

(1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

(2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization.

Negligence of Additional Insured
"Bodily injury" or "property damage" directly caused by or resulting from the negligence of the "additional insured(s)".

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED

This endorsement is effective on the inception date of the policy unless otherwise stated below.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy).

Policy Number: LBW650089

Named Insured: LEW EDWARDS GROUP

Endorsement Effective date: 02/06/2021

BW 000 859
08/2012

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Page 1 of 1
ENDORSEMENT 1

This Endorsement Changes the Policy - Please Read it Carefully

PRIMARY AND NON-CONTRIBUTING INSURANCE
(Third-Party's Sole Negligence)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD LIABILITY COVERAGE PART
BUSINESSOWNERS LIABILITY COVERAGE FORM

The following is added to Section IV - Commercial General Liability Conditions, Paragraph 4:

Section IV: Commercial General Liability Conditions

4. Other Insurance:
   d. Notwithstanding the provisions of sub-paragraphs a, b, and c of this paragraph 4, with respect to the Third Party shown below, it is understood and agreed that in the event of a claim or "suit" arising out of the Named Insured's sole negligence, this insurance shall be primary and any other insurance maintained by the additional insured named as the Third Party below shall be excess and non-contributory.

The Third Party to whom this endorsement applies is:

______________________________________________

Absence of a specifically named Third Party above means that the provisions of this endorsement apply "as required by written contractual agreement with any Third Party for whom you are performing work."

All other terms and conditions of this policy remain unchanged.

This endorsement is effective on the inception date of the policy unless otherwise stated herein. (The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: LBW650089

Named Insured: LEW EDWARDS GROUP

Endorsement Effective Date: 02/06/2021

Endorsement Serial No. BW 001 397 1004

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Business Auto Broadening Endorsement

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

I. NEWLY ACQUIRED OR FORMED ENTITY (BROAD FORM NAMED INSURED)
II. EMPLOYEES AS INSUREDS
III. AUTOMATIC ADDITIONAL INSURED
IV. EMPLOYEE HIRED AUTO LIABILITY
V. SUPPLEMENTARY PAYMENTS
VI. FELLOW EMPLOYEE COVERAGE
VII. ADDITIONAL TRANSPORTATION EXPENSE
VIII. HIRED AUTO PHYSICAL DAMAGE COVERAGE
IX. ACCIDENTAL AIRBAG DEPLOYMENT COVERAGE
X. LOAN/LEASE GAP COVERAGE
XI. GLASS REPAIR – DEDUCTIBLE WAIVER
XII. TWO OR MORE DEDUCTIBLES
XIII. AMENDED DUTIES IN EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS
XIV. WAIVER OF SUBROGATION
XV. UNINTENTIONAL ERROR, OMISSION, OR FAILURE TO DISCLOSE HAZARDS
XVI. EMPLOYEE HIRED AUTO PHYSICAL DAMAGE
XVII. PRIMARY AND NONCONTRIBUTORY IF REQUIRED BY CONTRACT
XVIII. HIRED AUTO – COVERAGE TERRITORY
XIX. BODILY INJURY REDEFINED TO INCLUDE RESULTANT MENTAL ANGUISH
BUSINESS AUTO COVERAGE FORM

I. NEWLY ACQUIRED OR FORMED ENTITY (Broad Form Named Insured)
SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured, the following is added:
   d. Any business entity newly acquired or formed by you during the policy period provided you own 50% or more of the business entity and the business entity is not separately insured for Business Auto Coverage. Coverage is extended up to a maximum of 180 days following acquisition or formation of the business entity. Coverage under this provision is afforded only until the end of the policy period. Coverage does not apply to an “accident” which occurred before you acquired or formed the organization.

II. EMPLOYEES AS INSURED
SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured, the following is added:
   e. Any “employee” of yours is an “insured” while using a covered “auto” you don’t own, hire or borrow in your business or your personal affairs.

III. AUTOMATIC ADDITIONAL INSURED
SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured, the following is added:
   f. Any person or organization that you are required to include as additional insured on the Coverage Form in a written contract or agreement that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period is an "insured" for Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

IV. EMPLOYEE HIRED AUTO LIABILITY
SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured, the following is added:
   g. An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

V. SUPPLEMENTARY PAYMENTS
SECTION II – LIABILITY COVERAGE, A. Coverage, 2. Coverage Extensions, a. Supplementary Payments, Subparagraphs (2) and (4) are replaced by the following:
   (2) Up to $3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We are not obligated to furnish these bonds.
   (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to $500 a day because of time off from work.
VI. FELLOW EMPLOYEE COVERAGE:
SECTION II – LIABILITY COVERAGE, B. Exclusions, 5. Fellow Employee
This exclusion does not apply if you have workers’ compensation insurance in-force covering all of your “employees”. Coverage is excess over any other collectible insurance.

VII. ADDITIONAL TRANSPORTATION EXPENSE
SECTION III - PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions, a. Transportation Expenses, is replaced with the following:

We will pay up to $50 per day to a maximum of $1,000 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy’s expiration, when the covered "auto" is returned to use or we pay for its "loss". If your business shown in the Declarations is other than an auto dealership, we will also pay up to $1,000 for reasonable and necessary costs incurred by you to return a stolen covered auto from the place where it is recovered to its usual garaging location.

VIII. HIRED AUTO PHYSICAL DAMAGE COVERAGE
SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions, the following is added:

   c. If Liability Coverage is provided in this policy on a Symbol 1 or a Symbol 8 basis and Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this coverage form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire, subject to the following limit:

   (1) The most we will pay for "loss" to any hired "auto" is $50,000 or Actual Cash Value or Cost of Repair, whichever is less

   (2) $500 deductible will apply to any loss under this coverage extension, except that no deductible shall apply to “loss” caused by fire or lightning

Subject to the above limit and deductible we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own of similar size and type. This coverage extension is excess coverage over any other collectible insurance.

IX. ACCIDENTAL AIRBAG DEPLOYMENT COVERAGE
SECTION III - PHYSICAL DAMAGE COVERAGE, B. Exclusions, 3.a., is amended to add the following:

This exclusion does not apply to the accidental discharge of an airbag.
X. LOAN/LEASE GAP COVERAGE
SECTION III - PHYSICAL DAMAGE COVERAGE
C. Limit of Insurance, the following is added:
4. In the event of a "total loss" to a covered "auto" shown in the schedule or declarations for which Collision and Comprehensive Coverage apply, we will pay any unpaid amount due on the lease or loan for that covered "auto," less:
   a. The amount paid under the Physical Damage Coverage Section of the policy; and
   b. Any:
      (1) Overdue lease/loan payments at the time of the “loss”;
      (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage.
      (3) Security deposits not returned by the lessor;
      (4) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
      (5) Carry-over balances from previous loans or leases.
The most we will pay under Auto Loan/Lease Gap Coverage for an insured auto is 25% of the actual cash value of that insured auto at the time of the loss.

XI. GLASS REPAIR – DEDUCTIBLE WAIVER
SECTION III - PHYSICAL DAMAGE COVERAGE
D. Deductible, the following is added:
   No deductible applies to glass damage if the glass is repaired rather than replaced.

XII. TWO OR MORE DEDUCTIBLES
SECTION III - PHYSICAL DAMAGE COVERAGE
D. Deductible, the following is added:
   If two or more "company" policies or coverage forms apply to the same accident:
   1. If the applicable Business Auto deductible is the smallest, it will be waived; or
   2. If the applicable Business Auto deductible is not the smallest, it will be reduced by the amount of the smallest deductible; or
   3. If the loss involves two or more Business Auto coverage forms or policies the smallest deductible will be waived.
   For the purpose of this endorsement "company" means the company providing this insurance and any of the affiliated members of the Mercury Insurance Group of companies.

XIII. AMENDED DUTIES IN EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS
The requirement in SECTION IV, BUSINESS AUTO CONDITIONS, A. Loss Conditions, 2. Duties In The Event Of Accident, Claim, Suit, Or Loss, a., In the event of "accident", you must notify us of an "accident" applies only when the "accident" is known to:
   (1) You, if you are an individual;
   (2) A partner, if you are a partnership;
   (3) A member, if you are a limited liability company; or
   (4) An executive officer or insurance manager, if you are a corporation.
XIV. WAIVER OF SUBROGATION
SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, 5. Transfer of Rights Of Recovery Against Others To Us, section is replaced by the following:

5. Transfer Of Rights Of Recovery Against Others To Us
We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

XV. UNINTENTIONAL ERROR, OMISSION, OR FAILURE TO DISCLOSE HAZARDS
SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 2. Concealment, Misrepresentation, or Fraud, the following is added:

Any unintentional omission of or error in information given by you, or unintentional failure to disclose all exposures or hazards existing as of the effective date or at any time during the policy period shall not invalidate or adversely affect the coverage for such exposure or hazard or prejudice your rights under this insurance. However, you must report the undisclosed exposure or hazard to us as soon as reasonably possible after its discovery. This provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

XVI. EMPLOYEE HIRED AUTO PHYSICAL DAMAGE
SECTION IV – BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance, b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

1. Any covered "auto" you lease, hire, rent or borrow; and
2. Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

XVII. PRIMARY AND NONCONTRIBUTORY IF REQUIRED BY CONTRACT
SECTION IV – BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance, the following is added and supersedes any provision to the contrary:

e. This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and
(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.
XVIII. HIRED AUTO - COVERAGE TERRITORY
SECTION IV - BUSINESS AUTO CONDITIONS, 7. Policy Period, Coverage Territory, e. Anywhere in the world if, is replaced by the following:
   e. Anywhere in the world if:
      (1) A covered "auto" is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and
      (2) The "insured’s" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico, or Canada or in a settlement we agree to.

XIX. BODILY INJURY REDEFINED TO INCLUDE RESULTANT MENTAL ANGUISH
SECTION V – DEFINITIONS, C. "Bodily Injury" is amended by adding the following:
"Bodily injury" also includes mental anguish but only when the mental anguish arises from other bodily injury, sickness, or disease.
Supplemental Report – Item 13

Meeting Date: November 15, 2021

TO: City Council

From: City Clerk’s Office

Title: Adoption of a Resolution Creating a Sibling City Relationship with City of Bloomington, Indiana, and Authorizing the Mayor to Execute A Sibling City Agreement

Enclosed is an updated Attachment C: National Sibling Cities USA Briefing Document that has more detailed information regarding the City of Bloomington, Indiana.

Staff Recommends that the City Council include the attached contract as part of the consideration of the agenda item.
Sibling Cities USA is a new non-profit organization that promotes unity in America by building deep relationships between US cities in different regions of the country. To help bridge regional and political divides, the program will facilitate the cross-regional pairing of cities or metropolitan areas (MSAs). A city or MSA from “the Coasts” might pair with one from “the Heartland,” or a city from a “blue state” with a city from a “red state.”

**Mission:** To promote national unity by increasing cultural understanding and respect, economic collaboration, and constructive political discourse among diverse cities through city-to-city relationships within the United States.

**Vision:** A United States of America with greater inter-regional understanding, respect, and cooperation across geographic, economic, racial, and political divides that leads to a more united, economically thriving, just, and equitable country.

**How:** Sibling Cities USA will facilitate the pairing of regionally diverse cities or MSAs and support their interaction. Sibling Cities will:

- Showcase each city’s unique heritage, culture, and attributes
- Explore common values and aspirations
- Build relationship, trust, and mutual respect
- Discover opportunities for economic collaboration
- Share and collaborate on best practices for city management and addressing civic issues
- Engage in public dialogue to build bridges across political, racial, and regional divides

**Background**

Calls for national unity are increasing in response to today’s ominous national divides. These divides have become a growing chasm between “red states” and “blue states” that threatens and tests the strength of our democracy. In his inaugural address, President Biden declared that we “must end this uncivil war.”

Knitting this country back together is essential, but will be neither easy nor quick. Coming together will require a focused, sustained, and multi-faceted effort. President Biden proclaimed that we “can do this if we open our souls instead of hardening our hearts.” Sibling Cities USA is designed to be a leader in this effort so that “disagreement does not lead to disunion.”
Prior Presidential Action: In 1956, in the perilous post-WW II environment, President Dwight D. Eisenhower held a White House conference on citizen diplomacy. With a goal of enlisting citizens to create a free and peaceful world, federally-backed People-to-People committees flourished, out of which grew Sister Cities International. Today, SCI is a nonpartisan nonprofit, uniting tens of thousands of citizen diplomats, volunteers, and civic leaders from nearly 500 member communities in more than 140 countries.

President Eisenhower sought to lessen the chance of international conflict by helping people from different cultures celebrate their differences while building partnerships that would increase prosperity and understanding. Sibling Cities USA seeks a similar result right here at home.

Three Pillars of Connection

The purpose of pairing cities or MSAs from different regions having a range of political, economic and racial diversity, is to promote national unity by assisting America’s communities in recognizing:

- the assets that each community brings to the table,
- the synergies that come from building partnerships, and
- our commonalities as fellow Americans committed to the prosperity of our country and the success of our democracy.

To accomplish this, each Sibling Cities USA pair will engage in three types of interaction in accordance with the Sibling Cities USA Pillars of Connection:

**Pillar One:** Community Engagement: Education, Arts, and Culture  
**Pillar Two:** Commerce: Economic/Business Collaboration  
**Pillar Three:** Civil Discourse: Public Policy Town Halls and Citizen Discussions

Pillar Three may be undertaken six to twelve months after activity under Pillars One and Two have begun and relationships are established between the two cities. Sibling Cities USA will assist each pair of cities/MSAs with setting up these interactions.

Pillar I. Community Engagement: Education, Arts & Culture

Initial outreach and exchange among the cities will be primarily cultural, social, and civic. Every city or region has its unique and distinguishing culture, history, and assets of which it is proud. Cultural interactions showcase these unique attributes and provide opportunities for the partner city to experience them, too, as residents enjoy getting to know each other. Examples include a signature food, an awe-inspiring vista, a renowned product (e.g., Napa Valley wine or Indiana limestone), a treasured park, local festivals/events (e.g., a Mariachi competition, a chili cook-off, a Black poetry reading, or a Chinese Lunar New Year celebration), or a famous entertainer, author, artist, historical figure or athlete who hails from the town.
The pandemic has caused us to become comfortable with meeting virtually which opens up many possibilities for sharing our community and civic life remotely. City residents could come together for online regional cooking classes, art and history lectures, or book clubs. Students could visit each other’s classes, teachers in the two cities could team teach, and clubs could hold joint meetings. Religious leaders could do pulpit swaps or hold inter-regional interfaith services. Civic organizations such as Rotary Club, PTA, League of Women Voters, and others would be invited to partner with Sibling Cities USA at the national level and connect their members in the two cities for joint events. Domestic student exchange programs could organize exchanges with partnering cities. The possibilities are many.

In parallel with cultural exchanges, city councils and city executives will have opportunities to discuss and compare issues they face. Common needs and interests will be discovered, as well as novel approaches and solutions. Councilmembers and city staff can share best practices, ideas, and resources for serving their communities and addressing local issues.

**Pillar II. Economic/Business Collaboration**

One of the best ways to get to know each other and create a more united and equitable society is to expand economic opportunity across regional and racial lines. Each pair of cities will explore economic and business collaboration that would drive equitable development, innovation, sustainability, and mutual prosperity. Collaboration can fulfill workforce, space, and other unmet needs for areas with robust economies and attract business and investment to areas seeking growth, enhancing and even jump-starting local economies. City pairs can partner to develop strategies to meet climate goals, including the development of well-paying sustainability-related jobs.

Exploration of economic partnerships may include the following activities:

- Chambers of Commerce and economic development entities trade economic profiles, strengths, and partnership opportunities
- Universities, colleges, and community colleges provide workforce training, research collaboration, intellectual property licenses, and venture investment opportunities
- Venture, angel, and private equity investors consider investment opportunities and accept pitches from the partner city/MSA.

More populous MSAs may offer relatively greater densities of a highly educated and professionally skilled workforce, investment capital, and business management experience. Less populous MSAs can offer relatively more space for manufacturing or other large facilities, lower commercial rent, greater affordability, and increased access to a higher standard of living. Accordingly, a large company might consider locating a new office, manufacturing facility, or remote work hub in the partner city. A technology company could consider a research collaboration with a university in the partner city. An investor might fund a start-up in the partner city.
An increasing number of organizations nationally are exploring cross-regional economic partnerships. This growing interest in investment opportunities in non-traditional geographic regions is evidenced by Revolution LLC, founded by AOL founder Steve Case and famous for its Rise of the Rest cross-country bus tours seeking investments in heartland cities. According to its website, Revolution “now has two $150M Rise of the Rest Seed Funds to invest in seed stage companies outside of Silicon Valley, NY, and Boston (the first launched in 2017 and the second in fall of 2019), both backed by a group of iconic entrepreneurs, executives and investors including Jeff Bezos, Eric Schmidt, Ray Dalio, Meg Whitman, and Sara Blakely.”

An available blueprint for economic collaboration among diverse participants is Strategic Doing, that teaches how to form collaborations quickly and enables leaders to design and guide new networks that generate innovative solutions. This approach has led to sustained economic growth in Oklahoma City, Flint, Michigan, Charleston, South Carolina, and more.

The pandemic has made remote work more comfortable and more common. Expectations regarding worker proximity are unlikely to revert to pre-pandemic levels. This, too, opens up possibilities for inter-regional cooperation such as hiring talent from the partner city/MSA without requiring employees to move, and enabling talented people to return to their home regions to help those regions thrive.

New economic ventures provide opportunities for increasing diversity, equity, and inclusion, including in enterprises that are funded and staffed pursuant to collaborations instigated by Sibling Cities USA. Eliminating systemic bias in economic opportunity is a key part of the Sibling Cities USA vision. Partnering cities/MSAs will be expected to incorporate diversity, equity, and inclusion practices in their economic and business partnerships.

**Pillar III. Public Policy Town Halls & Discussions**

After Sibling Cities residents have begun to develop friendship, mutual respect, familiarity, and trust through the community interactions and commerce activities of Pillars One and Two, they will have an opportunity to discuss our nation’s challenging policy issues. Joint town halls and smaller group discussions will provide opportunities to hear each other out in a respectful, safe, and open manner. These discussions aim to uncover both shared values and differing perspectives. The goal is to increase understanding that will foster empathy and ideas for better ways forward—together as a more united country.

Several organizations have developed protocols for balanced and respectful policy dialogues on difficult topics that the Sibling Cities can use, including:

- [Living Room Conversations](#)
- [National Issues Forums](#)
- [Braver Angels](#)
While we hope some city residents will be able to travel to the partnering city to have conversation in person, convening these dialogues online offers opportunities for easy and sustained conversation among remote residents of Sibling Cities.

**Implementation**

**Pilot Program:** A pilot program to establish proof of principle and inspire other cities to participate in Sibling Cities USA is under development. At present, Mayor Tom DuBois in Palo Alto, California (who independently conceived of a domestic sister city program) and Mayor John Hamilton in Bloomington, Indiana (who has been instrumental in developing this proposal), along with citizen leaders in each community, are planning for a Sibling Cities USA relationship. Learnings from their experience will help inform subsequent Sibling Cities relationships.

**Advisory Board:** Sibling Cities USA has assembled an Advisory Board of highly accomplished national leaders, many of whom bring deep experience in bridge-building, including

- **Joan Blades,** Co-Founder, Living Room Conversations
- **Cornell William Brooks,** Professor, Harvard Kennedy School and former President, NAACP
- **Rob Fersh,** Founder, Convergence Center for Policy Resolutions
- **David Mathews,** President, Kettering Foundation and former Secretary of HEW under President Ford
- **Joan Williams,** Professor, UC Hastings College of the Law and author, *White Working Class*

**Pairing Cities:** Guidelines for the pairing of cities and for fostering their interaction in accordance with the Three Pillars of Connection, include 1) the cities are regionally distant and not in the same state, 2) the cities are of roughly the same size, and 3) city leaders are enthusiastic about the pairing and the program. These guidelines will be refined over time, based on the experiences of prior city pairs. Learnings will be curated at the national level on an ongoing basis and used to enhance Sibling Cities USA practices. Sibling Cities USA is eager to partner with other organizations to identify potential city pairings and is exploring collaborations with the National League of Cities and the United States Conference of Mayors. City Councils will typically be asked to approve and endorse the Sibling City USA relationship at the outset.

**Funding:** Sibling Cities USA is seeking grant support from private and public sources. Sibling Cities USA has a modest start-up grant and is seeking further support from foundations and other grant makers. Sibling Cities USA will also explore grant support from the federal government, for example, from the Commerce Department, similar to SCI’s grant support from the U.S. Department of State.

**Budget:** Budgetary requirements would be modest, as most of the expenses would be for personnel and travel. Sibling Cities USA is designed to be a convenor that fosters relationships among local governments, civic organizations, economic development entities, schools, public interest groups, and more. Those organizations would organize and run their own events and projects. Ideally, Sibling Cities USA would provide modest grant support to participating organizations to enable greater
participation. Based on preliminary research, a national Sibling Cities USA program could be established with an initial annual budget of less than $1 million.

Conclusion

The need for unity is now -- our country longs to become more connected and to take renewed pride in America. Sibling Cities USA can help bridge our geographic, cultural, and economic divides, two communities at a time, healing our nation and restoring a common vision of our motto, *E Pluribus Unum*.

Note from the Author

*I grew up in Indiana, went to law school in Washington, DC, and practiced law in New York City before settling in Palo Alto, California in 1992. This gave me a deep appreciation and respect for the differing assets of these regions and the good, decent, and talented Americans who live in each place. I am passionate about helping others see their fellow Americans as I do and have carefully crafted the Sibling Cities USA program to do just that. I am eager to lead this program forward and foster its growth, including by facilitating, tracking and supporting Sibling Cities USA pairs, partnering with like-minded national organizations, liaising with both municipalities and the federal government, and expanding the program.*

~ Vicki Veenker

**Vicki Veenker** is an expert convenor whose unique experience with each of the Three Pillars led her to construct and champion this national Sibling Cities USA program. Both the International Trade Commission and the federal courts have appointed Vicki to their mediation panels. She served as the Managing Director, West Coast for Convergence Center for Policy Resolution, a national non-partisan non-profit that convenes policy leaders to find solutions to intractable issues. Her career as an accomplished Silicon Valley intellectual property attorney gives her unique insight into the innovation economy and economic development. As a founder and former General Counsel to Women’s Professional Soccer, Vicki has managed multiple entities working in cities across the country for a common purpose. Her first job was with the Kettering Foundation where she worked to increase the national network of grassroots convenors participating in the National Issues Forum.
Summary Title: Renter Protection Policy Package Recommendations

Title: Review and Recommend Renter Protection Policies for Development and Implementation (Continued from the November 8, 2021 meeting) (9:30 - 11:30 PM)

From: City Manager

Lead Department: Planning and Development Services

** This item was continued from the November 8, 2021 meeting

Recommendation:
Staff recommends that Council consider the recommendations of the Planning and Transportation Commission (PTC) and the Human Relations Commission (HRC) and identify the renter protection policies that should be prioritized and further developed for possible implementation.

Executive Summary:
This report summarizes nine renter protection policies and associated recommendations from the PTC and HRC. These policies include:

1. Rental Survey Program
2. Expand Tenant Relocation Assistance
3. Eviction Reduction Program
4. Anti Rent-Gouging Policy
5. Security Deposit Limit
6. Fair Chance Ordinance
7. Right to Counsel
8. Tenant/Community Opportunity to Purchase Act (TOPA/COPA)
9. Proactive Rental Inspection

The report also provides data on the existing renter profile for the City and existing local and state renter protections (both limited term and permanent) to offer a full picture of the current renter and policy landscape.
Each policy highlighted in this report requires further research and development. Based on Council’s interests to advance any of the strategies in this report, staff will provide a timeline and identify initial resource or funding needs required for policy implementation. Staff’s ability to complete any ordinance will depend on the number of strategies selected by Council with consideration to other ongoing or pending Council policy initiatives.

**Background:**
The City Council directed staff to research and propose policies and programs to protect and stabilize Palo Alto renters. In 2017, a Colleagues’ Memorandum\(^1\) highlighted the importance of protecting renters and continuing to create renter protection policies that help keep renters housed. The subsequent eviction of many renters when a downtown building converted to a hotel further heightened the need for renter protections and led to Council action. Subsequent discussions and Colleagues Memorandum\(^2\) followed in 2018, emphasizing City Council’s desire to work on the issues of housing affordability through renter protections.

To support the pursuit of renter protection policies and respond to the memoranda, the City applied for and was awarded a “Challenge Grant” from the Partnership for the Bay’s Future. Through the Challenge Grant the City has been able to create a profile of Palo Alto renters and research renter protection policies that would benefit Palo Altans.

Staff introduced some of these concepts to the PTC in September 2020 in a Study Session\(^3\) and the Human Relations Commission in February 2021\(^4\) to start the policy dialogue and obtain feedback. Staff returned to the PTC (April 2021\(^5\)) and HRC (August and September 2021\(^6\)) with the policies cited above for formal recommendation. This report reflects the recommendations of the PTC, the HRC, and staff.

**Renter Profile**
This section provides an overview of the renter profile in the city. For more detail, please see the previously referenced September 2020 PTC Study Session report.

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\(^1\) 2017 Colleagues Memorandum: [https://www.cityofpaloalto.org/civicax/filebank/documents/61406](https://www.cityofpaloalto.org/civicax/filebank/documents/61406)
\(^3\) PTC Study Session Staff Report, 09/30/2020: [https://www.cityofpaloalto.org/civicax/filebank/documents/78563](https://www.cityofpaloalto.org/civicax/filebank/documents/78563)
According to American Community Survey data⁷ there are 11,764 rental units in Palo Alto, which comprises 46% of the existing housing stock in Palo Alto. Table 1 and Figure 1 provide graphic interpretation of the data.

### Table 1: Palo Alto Rental Housing Stock by Type

<table>
<thead>
<tr>
<th></th>
<th>Single Family Detached</th>
<th>Single Family Attached</th>
<th>Duplex</th>
<th>Triplex and Fourplex</th>
<th>Small Apartment (5 to 9 units)</th>
<th>Medium Size Apartment (10 to 19 units)</th>
<th>Medium Size Apartment (20 to 49 units)</th>
<th>Large Apartment Complex (50+ units)</th>
<th>Total</th>
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<tr>
<td>Number of Units</td>
<td>3,234</td>
<td>489</td>
<td>294</td>
<td>1,002</td>
<td>1,362</td>
<td>1,228</td>
<td>1,579</td>
<td>2,576</td>
<td>11,764</td>
</tr>
<tr>
<td>% of Total Units</td>
<td>27.49%</td>
<td>4.16%</td>
<td>2.50%</td>
<td>8.52%</td>
<td>11.58%</td>
<td>10.44%</td>
<td>13.42%</td>
<td>21.90%</td>
<td>100.00%</td>
</tr>
</tbody>
</table>

*Source: 2018: American Community Survey 5-Year Estimate Subject Table*

Of the 11,764 rental units, approximately 1,696 are deed restricted affordable housing units. This is equivalent to 14% of the rental units, which means that 86% of the rental units are market rate units. According to RentCafe.com as of October 5, 2021, the average rent across all unit types in Palo Alto went up 5% from 2020 and is currently $3,648 when averaged across all unit types.

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⁷ ACS Data: https://data.census.gov/cedsci/table?q=tenure%20by%20income%20palo%20alto,%20ca&t=Income%20%28Households,%20Families,%20Individuals%29%20%2A%20Owner%20%26%20Renter%20%28Tenure%29%20&g=0400000US06_1600000US06_55282&tid=ACSST5Y2018.S2503
Household incomes for renter households span a large range and can be seen in Figure 2. Of note, is that 27% of renter households earn less than $50,000 a year.

Figure 2: Renter Households by Income Tier

Households that spend a larger share of income on rent have limited resources for other needs (including saving), are more financially insecure, and therefore at greater risk for eviction if their income is disrupted. The term “cost burdened” applies when a household spends more
than 30% of its gross income on housing costs. Table 2 shows the percentage of renter households that are cost burdened in Palo Alto. As shown in Table 2, a greater proportion of low-income households are cost burdened. While overall only about 37% of renter households are cost burdened, a super majority of each income group below $74,999 is cost burdened.

### Table 2: Renter Household Units Within Income Tiers

<table>
<thead>
<tr>
<th>Income Level</th>
<th>Number of Units</th>
<th>Percent of Total Renter Units</th>
<th>Cost Burdened Units</th>
<th>Percent of Cost Burdened Units in Income Tier</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $20,000</td>
<td>1,344</td>
<td>11.4%</td>
<td>1,135</td>
<td>84.45%</td>
</tr>
<tr>
<td>$20,000 to $34,999</td>
<td>752</td>
<td>6.4%</td>
<td>672</td>
<td>89.36%</td>
</tr>
<tr>
<td>$35,000 to $49,999</td>
<td>600</td>
<td>5.1%</td>
<td>449</td>
<td>74.83%</td>
</tr>
<tr>
<td>$50,000 to $74,999</td>
<td>1,319</td>
<td>11.2%</td>
<td>968</td>
<td>73.39%</td>
</tr>
<tr>
<td>$75,000 or more</td>
<td>6,958</td>
<td>59.1%</td>
<td>1,185</td>
<td>17.03%</td>
</tr>
<tr>
<td>Zero or Negative Income</td>
<td>369</td>
<td>3.1%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No Cash Rent</td>
<td>422</td>
<td>3.8%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL UNITS</td>
<td>11,764</td>
<td>100%</td>
<td>4,409</td>
<td>37.48%</td>
</tr>
</tbody>
</table>

[Denotes More than 50% of Units are Cost Burdened]
[Denotes Less than 50% of Units are Cost Burdened]

### Discussion:

**Policy Context**

Over the last few decades, lower-income households have been priced out of core Bay Area communities. Moving farther away, they can face long commutes (contributing to traffic congestion), are disconnected from community networks and resources. Local communities suffer as well. For example, local businesses cannot find and retain workers.

A significant percentage of Palo Alto lower-income households are rent-burdened; they are more likely to have to choose between paying rent over food or medical needs. When tenants consistently make these choices, the community suffers. In this context, cities can pursue public policies that increase renter stability. By increasing tenant protections for the most vulnerable households, the City creates greater opportunity for community stability.

The Partnership for the Bay’s Future recommends a three-prong approach to reversing these trends and ensuring that all can thrive in the Bay Area. The approach recommends (1) producing more deed-restricted units that are available to lower-income families; (2) preserving

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8 Source: American Community Survey
existing affordable housing by ensuring covenants do not expire, keeping homes in good repair, and ensuring households have needed subsidies; and (3) providing protection for renters so that they are able to stay in their homes. This multifaceted approach is often referred to as the “3Ps“, creating a shorthand for “production, preservation, and protections.”

The policy recommendations were developed within this greater context and policy framework. By tapping into the 3P’s framework, Palo Alto joins other Bay Area jurisdictions in developing and implementing housing policies that stabilize communities and provide greater housing stability—which is essential for a healthy life.

Existing Renter Protections
Some local and state renter protections currently exist and serve as the foundation for proposed enhancements. See Attachment A for an overview of permanent protections currently in place in Palo Alto and several applicable recent State bills.

Potential Renter Protection Policies
While protections do exist at both the state and local level, additional protections could give the local renter community a greater sense of stability. Staff analyzed nine renter protection policies, listed and described below in Table 3.

The report aims to focus the policy discussion around the needs of lower income renters and households of color, staying mindful that both tenants and landlords will be impacted. As such, these policies have been ranked in order of feasibility and therefore priority. See Table 3 for a breakdown of the policies staff analyzed, their impacts, and potential next steps.

<table>
<thead>
<tr>
<th>Policy</th>
<th>Brief Description</th>
<th>Impact to Tenants</th>
<th>Next Steps to Enact</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Rental Survey Program</td>
<td>Annual survey gathering data on all rental housing units.</td>
<td>Would provide data on rental units of all kinds, creating a foundation for future policy and implementing current policy.</td>
<td>Determine information in survey and platform for data collection and management. City could establish a fee to support the cost of administering the survey. A penalty for non-compliance could be levied.</td>
</tr>
<tr>
<td>2 Expand Tenant Relocation Assistance</td>
<td>Apply existing tenant relocation assistance framework to more rental units.</td>
<td>If the policy is expanded to more units, more tenants have assistance if they are forced to</td>
<td>City would establish the ordinance and notify owners and occupants. If a landlord does not comply, the tenant must</td>
</tr>
<tr>
<td>Policy</td>
<td>Brief Description</td>
<td>Impact to Tenants</td>
<td>Next Steps to Enact</td>
</tr>
<tr>
<td>--------</td>
<td>-------------------</td>
<td>-------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>leave through a no-fault eviction.</td>
<td>pursue the matter civilly.</td>
</tr>
<tr>
<td>3</td>
<td>Eviction Reduction Program</td>
<td>Expand existing state legislation to protect more households. Rules provide specific causes for when tenants can be evicted.</td>
<td>If the policy is expanded, more tenants will be covered by a framework that outlines what constitutes a fair eviction.</td>
</tr>
<tr>
<td>4</td>
<td>Rent Stabilization</td>
<td>Expand existing state legislation regarding a rent increase cap to include more households.</td>
<td>More tenants will be protected through limitations on rent increases through an expansion of eligibility.</td>
</tr>
<tr>
<td>5</td>
<td>Security Deposit Limit</td>
<td>Limit the amount charged for security deposits to less than two times (State limit) the monthly rent.</td>
<td>Helps lessen the size of obstacles to entry for low-income households.</td>
</tr>
<tr>
<td>6</td>
<td>Fair Chance Ordinance</td>
<td>Limit the ability to ask applicants about criminal history.</td>
<td>This ordinance will create more stability for households disproportionately impacted by incarceration.</td>
</tr>
<tr>
<td>7</td>
<td>Right to Counsel</td>
<td>Provides tenants with legal assistance in housing-related cases.</td>
<td>Tenants experiencing housing instability will feel more empowered and potentially stay housed more often.</td>
</tr>
<tr>
<td>8</td>
<td>Tenant/Community Opportunity to Purchase Act</td>
<td>Provides certain organizations notice of</td>
<td>Tenants at risk of being displaced through the sale of</td>
</tr>
<tr>
<td>Policy</td>
<td>Brief Description</td>
<td>Impact to Tenants</td>
<td>Next Steps to Enact</td>
</tr>
<tr>
<td>----------------</td>
<td>-------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>(TOPA/COPA)</td>
<td>intended sale of rented property. May provide a specific time period during which the tenants and/or organization have the opportunity to purchase the property.</td>
<td>a building are provided with another option to stay in their home.</td>
<td></td>
</tr>
<tr>
<td>9   Proactive Rental Inspection</td>
<td>Commits code enforcement staff to routinely inspect rental housing inventory.</td>
<td>Tenants protected from living in substandard housing.</td>
<td>None Recommended</td>
</tr>
</tbody>
</table>

**Policy Implementation & Enforcement**

All of the policy proposals raise questions of implementation and enforcement. The City must decide how to implement and enforce any proposed ordinances. The options for implementation and enforcement are summarized as follows:

1. **Active Implementation and Enforcement** – The City could fund staff or consultants to proactively administer programs and ensure compliance with local ordinances; in cases of non-compliance, fines could be levied. An example of this type of implementation and enforcement would be the Rental Survey program. City staff would correspond with all landlords, requesting them to complete the annual survey, and charging the appropriate fees, and levying fines against landlords who did not comply.

2. **Active Education and Private Enforcement** - In response to other policies, the City may implement the ordinance by noticing passage of the ordinance, conducting pro-active and regular tenant and landlord education, and providing information on the City’s website. Alleged violations of the ordinance, however, would be left to private enforcement. That may include referral under the City’s mediation program or the parties may need to seek redress from the court system.

For example, if the City lowered the amount a landlord can charge for a security deposit, the City would notify all landlords and tenants of the new rule taking effect. When, however, a tenant faced a landlord willfully violating that ordinance, the matter could be addressed during mediation or as a civil matter through the court system. Ideally, through
advance education, the landlord would understand the action is unlawful and not pursue it. Of course, that will not always be the case.

3. **Build Resources to Support Active Implementation and Enforcement** - The City may want to assemble greater resources to respond to complaints of violation of local ordinances. Such resources could be financially supported by fees charged to rental property owners that cover the cost implementing and enforcing the City’s tenant protection ordinances. While the City may wish to pursue this, due to the pandemic, the recession, and budgetary challenges, this enforcement program may need to be built up over time.

If the City wants to ensure compliance with laws, this type of program must be developed, funded, and appropriately staffed. For illustrative purposes, the City of Mountain View’s program began with a $115 per unit fee to fund four positions, which oversee the implementation and enforcement of the rental survey and other city-specific rental policies.

**Phasing**

To the extent Council supports any of the highlighted renter policies and seeks implementation, staff recommends new programs and ordinances be phased in over time, which is another reason for the prioritization that has been outlined in Table 3. While staff recommend development of a series of ordinances, staff also recommend phasing their passage. Each policy requires additional specificity and outreach in the development of a draft ordinance.

**Policy Analysis**

Staff researched renter protection polices in the Bay Area to get a sense of where jurisdictions were focusing their policy work. Based on reviewing the City’s current policies, trends in other cities, and the expertise of PolicyLink, staff focused on the nine policies reflected in this report. These policies are based on existing laws at the local, county, state, and national levels. There are many other policies that the City could consider, but the identified programs begin to address some of the key renter protections and provides a starting point for developing a more robust program for the City.

For each policy discussed below, information is provided about what other jurisdictions are doing. For a full summary of all jurisdictions and policies, see Attachment B.

1. **Rental Survey Program** – **PTC recommends** that the Council consider the Rental Survey program the highest priority, that the Survey cost should be covered by the City and that staff should work with the PTC in development of the program. **HRC recommends** that the Council consider the rental survey program and that this the highest priority.
Palo Alto established a basic rental property registration (Rental Survey) in 2002 that is cited in PAMC Section 9.72.050. As stated in the code, the registry would collect basic information about the owner and contact information. While the Office of Human Services still manages the program, they have not reached out to local landlords or verified the information collected in recent years due to workload constraints and as such has only had minimal participation by property owners. As seen in Table 4, a variety of cities throughout California have adopted rent registration programs.

Staff propose an expanded annual Rental Survey program. In addition to the information outlined in the PAMC, staff recommends the survey also collect rental rates, rent increases, evictions filed on the property, the size of the unit, and the length of the current tenancy. The survey will provide detailed local data to better understand the profile of local renters.

### Table 4: Rental Survey Cities

<table>
<thead>
<tr>
<th>City</th>
<th>Population</th>
<th>Dedicated Staff</th>
<th>Mandatory Participation (Yes/No)</th>
<th>Fee</th>
<th>Only Rent Controlled Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alameda, CA</td>
<td>78,522</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Berkeley, CA</td>
<td>120,926</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Concord, CA</td>
<td>129,183</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>East Palo Alto, CA</td>
<td>28,155</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Los Angeles, CA</td>
<td>3,909,535</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Mountain View, CA</td>
<td>82,379</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Oakland, CA</td>
<td>433,031</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>San Francisco, CA</td>
<td>802,235</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>San Jose, CA</td>
<td>1,002,000</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Santa Cruz, CA</td>
<td>64,608</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Santa Monica, CA</td>
<td>91,577</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

Implementing a more robust Rental Survey program would provide the foundation for enacting other rental protection measures. Through the Survey, the City can also observe trends and identify areas of challenge where policy intervention may be needed. Furthermore, if the City

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9 9.72.050  Property registration.

(a) The landlord of each residential rental property within the city shall register the unit or units with the city, regardless of whether the residential rental property is listed in Section 9.72.030. The registration shall include the name and mailing address of the owner or owners of the property, as well as the name, mailing address and contact telephone number of the person having the legal authority to effectively resolve disputes arising under this chapter.

(b) For the sole purpose of reimbursing the city of Palo Alto for the reasonable costs of maintaining property registration records and related administrative systems, the owner or manager of each residential rental unit to which this chapter applies shall pay a fee in an amount to be set by the Palo Alto city council.
decided to enforce local regulations more actively, the Rental Survey could provide valuable information to aid enforcement staff.

For example, state law, AB1482, establishes eviction limitations and a rent increase cap. Currently, without a survey program, the City cannot determine if landlords are in compliance with AB1482; there is no year-after-year data to reference.

Ideally, the Rental Survey would impact both landlords and tenants positively. The City can be an honest broker of data that is available to the tenants and landlords alike. Through this information, tenant and/or landlord groups can propose new policies and or improvements.

Landlords may be required to pay an annual fee, which increases their costs. Fees for these programs in most cities are minor, though could accumulate for large property owners. Some landlords and some tenants indicated that they might be concerned about disclosing certain information, as was mentioned during community outreach. The City would want to take care in collecting and distributing data, to balance the needs for gathering and providing data with privacy. Other cities have navigated this balance by randomizing some public data and not providing potentially identifying public data.

Implementation of the Rental Survey program is expected to impact all Palo Alto renters, as units of all kinds are subject to registry—from single family homes and accessory dwelling units to large apartment complexes. One way to ease the impact on property owners is to phase in adoption of the survey over time, impacting larger properties first, followed by smaller properties. When discussing implementation of this program, several other jurisdictions and property owners mentioned the difficulty for small properties to implement and extra assistance may also be necessary for those smaller properties.

**PTC Motion & Deliberation:** PTC recommends that the Council consider the Rental Survey program the highest priority, that the Survey cost should be covered by the City and that staff should work with the PTC in development of the program.

The PTC voted unanimously to support staff’s recommendation, noting that this was the policy that should be the highest priority. Other discussion revolved around who would pay for the implementation and enforcement of this program. Some commissioners supported the City funding this program through budget appropriations because the data gathered with this program would be essential to policy makers.

**HRC Motion & Deliberation:** The HRC voted unanimously to support staff’s recommendation, similarly noting that this policy should be considered the highest priority. Other discussion revolved around this policy finally being able to show the community what the full extent of renters’ difficulties are.
Staff wish to note that without dedicated funding—either from fees or another source—this program cannot be implemented and it cannot be sustained.

2. **Expand Tenant Relocation Assistance** – *PTC recommends that the Relocation Assistance requirement should not expand to apply based on property size but based on a non-income-based metric to serve cost-burdened households. HRC recommends expanding tenant relocation assistance and that pursuit of this policy should be done after or in tandem with the rental survey program.*

In 2018, Palo Alto established requirements for Tenant Relocation Assistance (TRA) for no-fault evictions (PAMC Section 9.68.035\(^{10}\)). For historical information regarding the passage of the ordinance, please see the [2018 report] (https://www.cityofpaloalto.org/civicax/filebank/documents/66507) from the City Attorney’s Office. Tenant Relocation Assistance (TRA) applies to properties that contain 50 or more rental units when those units are being demolished or significantly remodeled. The tenants, being displaced, must be provided monetary assistance from the property owner. The amount of assistance is based on unit size with additional compensation given for households with seniors/children/disabled members, as follows:

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Assistance Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 bedrooms</td>
<td>$7,000</td>
</tr>
<tr>
<td>1 bedroom</td>
<td>$9,000</td>
</tr>
<tr>
<td>2 bedrooms</td>
<td>$13,000</td>
</tr>
<tr>
<td>3 or more bedrooms</td>
<td>$17,000</td>
</tr>
</tbody>
</table>

As can be seen in Table 5, many cities require relocation assistance through a variety of standards and eligibility criteria. All cities below require relocation assistance for all rental units, regardless of how many units are at a property. Typically, any long-term tenants at risk of displacement from their homes due to removal from the rental market are awarded some help for being evicted through no fault of their own.

<table>
<thead>
<tr>
<th>City</th>
<th>Population</th>
<th>Tenant Relocation Assistance</th>
<th>Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Berkeley, CA</td>
<td>120,926</td>
<td>x</td>
<td>Based on relocation duration</td>
</tr>
<tr>
<td>Concord, CA</td>
<td>129,183</td>
<td>x</td>
<td>2x Monthly Rent or $5,000</td>
</tr>
<tr>
<td>Mountain View, CA</td>
<td>82,379</td>
<td>x</td>
<td>Based on eligibility criteria</td>
</tr>
</tbody>
</table>

\(^{10}\) [https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-55262](https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-55262)
\(^{11}\) [https://www.cityofpaloalto.org/civicax/filebank/documents/66507](https://www.cityofpaloalto.org/civicax/filebank/documents/66507)
In Palo Alto, properties with 50 or more rental units equates to 22% of the rental housing units, leaving the majority of renter households ineligible for assistance. Outside of the Hotel President, the TRA has not been triggered. With the City’s anticipated Regional Housing Needs Assessment (RHNA) target of over 6,000 homes, more redevelopment is likely. To the extent redevelopment occurs on occupied housing units, it could displace tenants.

To broaden relocation assistance, the City can lower the units per property threshold. The three options below can be considered for implementation, each one expands the TRA protections above what is in place today:

a. **Three Units or More** - Lowering the number of units in a property to three means 66% of the rental housing stock would be covered by TRA. The three-unit threshold has significance for the unit count for local planning and zoning purposes, as the City defines a multi-family property as one with three units or more. This is the threshold for when Below Market Rate housing requirements are required and does not include accessory dwelling units or junior accessory dwelling units.

b. **Five Units or More** - Amending the number to five units per property means that 57% of the rental housing stock is covered. This is the threshold where properties are considered “commercial” by financing institutions.

c. **10 Units or More** - Changing the number to 10 units per property means 45% of the rental housing stock is covered. This includes medium and large apartments.

Please note, in the 2018 Colleagues Memorandum, Council specifically identified five or more units as a potential starting place for expansion of the TRA.

A drawback to lowering the TRA threshold would be an extra cost to developers and landlords in Palo Alto. While the TRA only applies at the time of the no-fault eviction, property owners could increase monthly rental rates to provide reserves in case. The TRA provision could also deter redevelopment of occupied housing units; which has advantages and disadvantages.

The program would help any displaced tenants relocate, helping with moving expenses, security deposits, and other costs. Depending on their income, the displaced household may not be able to relocate in Palo Alto. It should be noted that, under SB 330, tenants displaced...
from their housing for the construction of new housing, do have some rights to return and relocation payments. The rental rates, however, may increase if they return to the redeveloped project.

**PTC Motion & Deliberation:** Consider expanding relocation assistance based on a metric that serves cost-burdened households and taking other measures to prevent displacement.

The PTC expressed concerns about the unintended consequences of tenant relocation assistance and whether everyone needed them. It was also mentioned that subjecting all property owners, regardless of the size of their property, to the same level of requirements may not be fair as the impact of the pandemic may be felt differently between small and large landlords.

The PTC wanted to focus relocation assistance on cost-burdened households and requested staff to identify a metric—that was not income—that could achieve this. In short, instead of focusing on the number of units, the PTC wants the policy to reach all cost-burdened households no matter the size of the rental property they live in. The PTC was concerned that an income-based metric would deter landlords from renting to lower-income and cost-burdened households. At least one commissioner suggested using rents below a certain threshold as a metric, under the theory that units with higher rents are less likely to contain cost-burdened households.

Staff and community partner, Silicon Valley at Home, researched the feasibility of establishing a metric for providing assistance to cost burdened renters that is not based on income. This is difficult because cost-burden is a function of income and rent. Staff suggest providing tenants with some basic level of assistance across property types but allow for additional assistance to be made to those in greater levels of need. This approach is one way to provide more assistance when appropriate. For example, at the time of the eviction, a household could verify it is cost-burdened and receive additional support.

See Attachment C for potential metrics that could be considered to determine tenant relocation assistance.

**HRC Motion & Deliberation:** The HRC voted unanimously to support expansion of tenant relocation assistance, based on the income metrics and the cost burden to the tenants, noting that this policy should be considered the second priority.

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12 See Attachment C
The discussion revolved around this policy being difficult to pursue while the City is simultaneously in the Housing Element process, designed to encourage development, as the costs to the developers may have a dampening effect on their desire to develop in Palo Alto.

3. **Eviction Reduction Program**  
   **PTC recommends** extending framework for fair evictions to tenants in buildings built within the last 15 years and tenants in units for less than a year who are not currently protected by the statewide renter protection law (AB1482). **The HRC recommends** extending protections to buildings built within the last 15 years, tenants who have lived in a unit for less than a year, and single-family homes not owned by corporations. The HRC also recommends considering this policy the third priority.

AB1482 outlines the lawful reasons for evictions in California. These reasons are referred to as “just cause” protections and are broken up into two groups, “at-fault” and “no-fault” evictions. The 11 “at-fault” reasons and four “no-fault” reasons can be found in Attachment D as well as in the full text of the bill [here](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1482). AB1482 currently applied to Palo Alto tenants. Because the jurisdictions in Table 6 have just cause protections in place, AB1482 is less impactful and they have no reason to pursue a “patch” to AB1482. AB1482 provides some protections for tenants until 2030 when the bill sunsets. Not all tenants, however, are protected. Renters of the following units are not covered:

- a. Rental units in properties built within the last 15 years
- b. Rental units occupied by renters that moved in less than a year ago
- c. Single family homes that are not owned by a corporation
- d. Renters who live in a duplex and the other unit is owner-occupied

During the State deliberations of AB1482, the above listed exemption had different rationales provided by different stakeholders. The exemption of projects built in the last 15 years was intended to prevent dampening of housing development. Exempting owners renting a unit on their property (duplex) was intended to provide flexibility if the selected tenant was not a good match. And, the exemption for single family homes not owned by corporations was intended to provide more flexibility for small property owners. These exemptions were developed as a way of establishing a statewide minimum that communities could then build upon and customize with stronger protections that suited the needs of individual communities.

Staff recommends focusing on closing the gaps in coverage of AB1482 through a local ordinance. The Council may direct that all, some, or none of the gaps be closed. By extending coverage of AB1482 to include rental units in properties built within the last 15 years or in units less than a year, individuals in newer units or with shorter term tenancies would have the same protections that the rest of the rental market have. However, extending these protections would allow landlords to only evict individuals in certain cases. Table 6 illustrates that many Bay

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13 [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1482](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1482)
Area jurisdictions and similar cities have local just cause and ordinances which supersede state law and may cover portions of the previously mentioned gaps.

<table>
<thead>
<tr>
<th>City</th>
<th>Population</th>
<th>AB1482 Patch</th>
<th>Just Cause</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alameda, CA</td>
<td>78,522</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Berkeley, CA</td>
<td>120,926</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Concord, CA</td>
<td>129,183</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Mountain View, CA</td>
<td>82,379</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Oakland, CA</td>
<td>433,031</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>San Francisco, CA</td>
<td>802,235</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>San Jose, CA</td>
<td>1,002,000</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Santa Monica, CA</td>
<td>91,577</td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

Specifically, staff suggest considering having the provisions apply to properties built in the last 15 years and to renters who have lived in a unit less than one year. The passage of either or both solutions requires drafting a new ordinance that supplements state law.

The passage of a local ordinance that covers all or some of the above-named groups could expand protections to more tenants but restricts more property owners’ actions. Surveyed local property owners and managers felt that these protections could impact how much time is spent managing the day-to-day operations at a property level, costing them more money. This can include incurring further costs, which is difficult to imagine in this current economic time. However, Palo Altans have indicated their desire for greater equity in their community and this is one way in which that could be better achieved.

**PTC Motion & Deliberation:** PTC recommends extending framework for fair evictions to tenants in buildings built within the last 15 years and tenants in units for less than a year who are not currently protected by the statewide renter protection law (AB1482).

The PTC unanimously agreed that creating a patch to cover all the loopholes in AB1482 was unnecessary, particularly regarding single-family homes not owned by a corporation or duplexes where the other unit was owner-occupied.

The majority felt that protecting tenants in properties built within the last 15 years and tenants in their units for less than a year should be pursued, though the commission was split on that decision. Concerns regarding the necessity of such an ordinance were voiced by those dissenting due to existing local protections and the newness of state legislation.
**HRC Motion & Deliberation:** The HRC voted unanimously to extend protections to buildings built within the last 15 years, tenants who have lived in a unit for less than a year, and single-family homes not owned by corporations. HRC supported staff’s recommendation that this be considered the third priority. Other discussion revolved around the importance of this policy and the stabilizing effects it could have on the community.

4. **Anti-Price-Gouging Policy**\(^\text{14}\) – *PTC does not recommend* extending rent increase limits to housing units not protected by the statewide anti-gouging law (AB1482). The HRC voted unanimously to extend rent increase to all of the categories not included in AB1482 and that this policy should be considered the fourth priority.

California has a statewide cap on how much rents can increase from year to year. This cap was passed as part of AB1482. The law states that rent cannot increase more than 5% plus inflation annually, and that added together the increase cannot be more than 10% annually. For context, an allowable increase could be between $182 and $365 on the average rent of $3,648. This policy stabilizes the rent for households of all incomes. Policylink’s 2019 Report entitled *Our Homes, Our Future*\(^\text{15}\) claimed that price control “…increases the housing stability of tenants while decreasing the risk of displacement, eviction, and frequent moves.” Given the number of Palo Alto residents that are rent burdened, the risk of displacement and eviction is high.

According to the Center for Community Innovation and Urban Displacement Project’s *policy brief*\(^\text{16}\) with ECONorthwest, AB1482’s anti-price-gouging policy allows for above market-growth, which is a much less constricted rental increase than rent control.

**Table 7: Cities with Renter Protections in Excess of AB1482**

<table>
<thead>
<tr>
<th>City</th>
<th>Population</th>
<th>AB1482 Patch</th>
<th>Rent Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alameda, CA</td>
<td>78,522</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Berkeley, CA</td>
<td>120,926</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Concord, CA</td>
<td>129,183</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Mountain View, CA</td>
<td>82,379</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Oakland, CA</td>
<td>433,031</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>San Francisco, CA</td>
<td>802,235</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>San Jose, CA</td>
<td>1,002,000</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Santa Monica, CA</td>
<td>91,577</td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

\(^{14}\) At the PTC discussion in April 2021, this policy recommendation was referred to as a rent stabilization mechanism, but Anti-Price-Gouging is a more accurate representation of the policy’s intent and the current name reflects that.

\(^{15}\) https://www.policylink.org/sites/default/files/OurHomesOurFuture_Web_08-02-19.pdf

Examining similar cities and neighboring jurisdictions, staff find that many have rent control protections. Rent control (sometimes referred to as “rent stabilization”) typically has stricter rent increase limits than AB1482. Given the statewide stabilization in effect until 2030, and the considerable effort required to establish local rent stabilization policies, staff recommend not pursuing a separate Palo Alto rent stabilization policy.

The anti-gouging measures of AB1482 apply to most rental units in Palo Alto. The law, however, does not apply to:

- Rental units in properties built within the last 15 years
- Rental units occupied by renters that moved in less than a year ago
- Single family homes that are not owned by a corporation
- Renters who live in a duplex and the other unit is owner-occupied

Staff does recommend focusing on closing the gaps in coverage of AB1482 through a local ordinance. The Council may wish to recommend that all gaps be closed, or that certain gaps be closed. The following outlines the pros and cons of extending AB1482 rent increase caps to the different unit types.

- **Rental units in properties built within the last 15 years** – Some argue that the development pipeline of new housing units could be slowed if new housing units are subject to the rent increase cap. The cap, however, does not prevent new housing rental rates from being set at market rates and increasing each year. To the degree that a cap could harm new housing development, the City should be cautious. More research with the local development community would be conducted if the Council support expanding rent cap increases to these units.

- **Rental units occupied by renters that moved in less than a year ago** – Some argue that AB1482 not applying within the first year provides an opportunity for the property owner and the tenant to see if they are a good fit. Under AB1482, a tenant can still be evicted for breaching the lease; so theoretically, if the tenant is violating the terms of the lease, the landlord can pursue eviction. Likewise, the rent can be set at market rates and increase annually, with limits. It’s difficult to see a strong downside to extending rent increase protection to these tenants.

- **Single family homes that are not owned by a corporation** – This exception assumes that many single-family homes being rented are “mom and pop” operations; an owner who is not using real estate as their primary income. They are assumed to be small in scale (the number of units owned is small) and less sophisticated than corporations or other business enterprises. Perhaps it’s a person who owned a home, bought a new home, and decided to rent their previous home. There can be merit to not burdening these landlords with more rules and diminishing their flexibility. In Palo Alto, however, 27% of rental units are single family homes. More research would be needed to detail ownership by individuals vs. corporations. If rented single family homes are not subject
to a rent cap increase, a number of Palo Alto renters will continue to face rent increases of any amount.

- **Renters who live in a duplex and the other unit is owner-occupied** – Similar to the above topic, these units were carved out of AB1482 in order to provide owner occupants with more flexibility in who lives next door. The close proximity of the landlord and tenant may present a special case where such flexibility is warranted. It could be argued that this also applies to Accessory Dwelling Units (ADU), that is properties with a primary home and a detached or attached ADU.

**PTC Motion & Deliberation:** PTC does not recommend extending rent increase limits to housing units not protected by the statewide anti-gouging law (AB1482).

The PTC did not support expanding the anti-rent-gouging policy to any additional households at this time. They felt that the rent caps were still too new to understand the impacts on the city. Some commissioners were willing to say that because they recommended extending the just cause protections of AB1482 to the two groups staff recommended, it should follow that they support this effort as well. The majority, however, did not support this.

**HRC Motion & Deliberation:** The HRC voted unanimously to support extending rent increase to all of the categories not included in AB1482.

The HRC believed strongly in extending a rent increase cap to all of the excluded parties and properties, also noting that this policy should be considered the fourth priority. Other discussion revolved around the need to do more to protect more tenants, resulting in the addition of single-family home and owner-occupied duplexes to staff’s recommendation.

5. **Security Deposit Limit (3P: Protection)**- PTC recommends limiting security deposits to 1.5x the rent. The HRC made the same recommendation as PTC, noting that this policy should be considered the fifth priority.

Limiting the amount a landlord can charge for a security deposit is an effective way to easily lower the cost of entry for households. High security deposits can be a significant obstacle for lower-income renter households. California Civil Code 1940.5 and 1950.5 state that a landlord cannot charge more than two times the rent for an unfurnished unit and three times the rent for a furnished unit as a security deposit. Two times the average Palo Alto rent ($3,648), on top of the first month’s rent is $10,944 just to be able to rent an average unit in Palo Alto. This amount is unattainable for many households.

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17[https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CIV&division=3.&title=5.&part=4.&chapter=2.&article= ]
A security deposit limit would significantly impact many low-income renter households. As has been shown repeatedly, low-income renter households are disproportionately people of color and this could help provide some protection and stability for those households, as well as help the City meet its racial equity goals. When discussed with a collection of property managers and owners, it was mentioned that utilizing the security deposit as a tenant’s last month’s rent in lieu of paying rent was a fairly common practice by tenants. Decreasing the security deposit by a half month recognizes that practice, gives an owner a buffer and lessens the amount that a tenant is expected to pay to gain entry to a unit.

Returning to the example, limiting the security deposit to 1.5x the rent would reduce the required deposit $7,296 to $5,5472 for the average unfinished unit. While no similar legislation is being explored in other Bay Area jurisdictions that staff is aware of, many states have laws that cap security deposits at one month’s rent.

<table>
<thead>
<tr>
<th>City</th>
<th>Population</th>
<th>Security Deposit Limit</th>
<th>Tiered</th>
<th>Returned with Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>CALIFORNIA STATE LAW</td>
<td></td>
<td>2x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Burlington, VT</td>
<td>42,545</td>
<td>1x</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Durham, NC</td>
<td>269,702</td>
<td>1/1.5/2x</td>
<td></td>
<td>x</td>
</tr>
<tr>
<td>Washington, DC</td>
<td>692,683</td>
<td>1x</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

There are several different ways to pursue limiting a security deposit, as shown in Table 8 above. Nationally, security deposit law ranges from no limit to as low as one month’s rent. While no local jurisdictions have decided to pursue a security deposit limit, many other states and municipalities have.

**PTC Motion & Deliberation:** PTC recommends that Council consider limiting security deposits to 1.5x the rent.

The PTC believed that high rents meant large security deposits, which could act as a barrier for lower income households. As a way to help lower income households navigate the Palo Alto market, the PTC recommended that the Council consider limiting security deposits to 1.5x the rent, though not everyone was in agreement that this particular action would realistically help.

**HRC Motion & Deliberation:** The HRC voted unanimously to support the PTC’s recommendation.
The HRC noted that this policy should be considered the fifth priority. Other discussion revolved around a desire to decrease the number further but disliking the idea of leaving landlords with nothing if a tenant left early.

6. **Fair Chance Ordinance** - *PTC recommends limiting landlords’ ability to inquire about an applicant’s criminal history and direct staff to seek Council recommendation regarding when in the lease-up process inquiries would be acceptable. HRC recommends supporting the PTC’s recommendation, and that this be considered the sixth priority.*

Fair Chance ordinances prohibit landlords from having criminal history be a part of the marketing, application, lease up, or vacating process. Fair Chance ordinances are gaining in popularity regionally, having passed in San Francisco, Oakland and Berkeley within the past few years. The *Just Cities’ Policy Comparison Chart*\(^{18}\) (Attachment E) shows that Oakland and Berkeley have recently passed Fair Chance Ordinances that basically do not allow a landlord to discriminate against a tenant based on their criminal history. These are considered best practice ordinances in this area. To see some of the most frequently asked questions addressed regarding Fair Chance, please see this page by the [Fair Chance Housing Coalition]\(^{19}\).

<table>
<thead>
<tr>
<th>City</th>
<th>Population</th>
<th>Fair Chance Ordinance</th>
<th>Can Check Lifetime Sex Offender List</th>
<th>Fines Per Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Berkeley, CA</td>
<td>120,926</td>
<td>x</td>
<td>X</td>
<td>Up to $10,000</td>
</tr>
<tr>
<td>Oakland, CA</td>
<td>433,031</td>
<td>x</td>
<td>X</td>
<td>Up to $1,000</td>
</tr>
<tr>
<td>San Francisco, CA</td>
<td>802,235</td>
<td>x</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Palo Alto is committed to pursuing racial equity and ensuring renter protection policies advance racial equity. Considering that incarceration disproportionately impacts members of the Black, Indigenous, People of Color (BIPOC) community, a fair chance ordinance could help address racial equity goals and renter protection goals.

As is seen in Attachment E, there are several different places in the rental process where discrimination against formerly incarcerated individuals occurs. Passing a Fair Chance ordinance does not mean that a landlord cannot make choices about who to offer housing to, but simply requires reviewing each applicant and can be customized to best suit the community. For example, Berkeley and Oakland exempt single family homes and allow for specific background

\(^{18}\) [https://static1.squarespace.com/static/5d3a3edf4508ff00014b406f/t/5fd168448ba64b78df48a6f7/1607559237612/JustCities_FCH_PolicyComparisonChart.pdf](https://static1.squarespace.com/static/5d3a3edf4508ff00014b406f/t/5fd168448ba64b78df48a6f7/1607559237612/JustCities_FCH_PolicyComparisonChart.pdf)

\(^{19}\) [https://fairchance4all.org/faq](https://fairchance4all.org/faq)
checks like the State’s Lifetime Sex Offender list. Likewise, some communities “ban the box” on the initial application but allow checks after a tenant passes initial screening.

The topic of incarceration and/or a tenant’s criminal history is a sensitive one. As landlords and property managers are risk averse, removing access to this information may be seen to increase their risk. However, the assumption that past behavior can invariably predict future behavior can perpetuate discriminatory behavior.

**PTC Motion & Deliberation:** PTC recommends limiting landlords’ ability to inquire about an applicant’s criminal history. Staff seek Council recommendation regarding when in the lease-up process inquiries would be acceptable.

The PTC believed very strongly in the importance of this policy. Commissioners who voted against the policy, who were not in the majority, did so because they believed that other legislation applied or they were not convinced that recommending following a specific city’s example was the best option.

**HRC Motion & Deliberation:** The HRC unanimously supported the PTC’s recommendation.

The HRC noted that this policy should be considered the sixth priority. Other discussion revolved around whether this policy should be higher on the list of priorities, due to how impactful it could be for some tenants, but eventually came to agree with staff’s recommendation with regard to prioritization. The HRC was very interested in moving this policy forward.

7. **Right to Counsel (3P: Protection)** - **PTC recommends** that the City (1) endorse the concept of Right to Counsel, (2) advocate to the County—to the Courts and Supervisor—that an eviction court be established, and (3) support legislative efforts to fund Right to Counsel (AB1487). **HRC recommends** the City support the PTC’s recommendation and that this be considered the seventh priority.

Right to counsel is when a jurisdiction provides legal assistance to tenants so that they have help navigating the legal system for evictions.

<table>
<thead>
<tr>
<th>City</th>
<th>Population</th>
<th>Right to Counsel</th>
<th>Statewide</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Haven, CT</td>
<td>130,331</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>San Francisco, CA</td>
<td>802,235</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>Seattle, WA</td>
<td>724,205</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Washington, DC</td>
<td>692,683</td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

*Table 10: Cities with Right to Counsel*
Across the nation, there are efforts to provide tenants facing eviction with legal assistance or representation. Efforts are underway in smaller cities like Toledo, Ohio, and larger cities like San Francisco. Some states have even gone so far as to pass Right to Counsel at the state level, like Washington and Maryland.

Right to counsel can help tenants maintain their housing. A 2015 report from the Permanent Commission on Access to Justice\(^\text{20}\) found that 98% of tenants attempting to address any legal issues regarding their housing had no legal representation whatsoever. According to a 2019 article published by the Center for American Progress\(^\text{21}\), “[w]ithout representation, the majority of tenants lose their cases and ultimately face evictions.”

Circumstances have become increasingly more difficult for many tenants since 2019 and now lawyers are deeply concerned about what will occur once eviction moratoria expire. The National Housing Law Project\(^\text{22}\) said 85 out of 100 legal aid and civil rights attorneys surveyed across 38 states believed that a dramatic surge in eviction cases would occur and they had no idea how they would deal with them. Essentially, Right to Counsel guarantees tenants legal representation. This is important for tenants who cannot afford their own legal representation.

The establishment of a local Right to Counsel program would be cost prohibitive for the City. The Center for American Progress wrote about San Francisco’s No Eviction Without Representation Act that resulted in the appropriation of $5.8 million by Mayor Breed to start up these efforts. In the same report, Newark, NJ, expected that annual costs for serving renters within 200% of the poverty limit would be approximately one million dollars.

While the establishment of Right to Counsel programs can be expensive, there are some local resources available. Stanford Law School, local law offices, Law Foundation of Silicon Valley and Community Legal Services of East Palo Alto (CLESPA) all have programs to help people with a legal defense. However, many people do not know these resources exist or how to access them. A significant part of implementation of this kind of program would depend on the network of existing services providers, providing outreach and education about those services and finding the places where more assistance needs to be provided.

A new approach to this service is being considered by the City of San Jose and Santa Clara County. They have been working in partnership with legal service providers to establish a Housing Court that could provide renters with a trained legal advocate. A collaborative approach could be a workable solution to provide needed legal services.


\(^{21}\) https://www.americanprogress.org/issues/poverty/reports/2019/10/02/475263/right-counsel-right-fighting-chance/

Initially, AB1487 was a spot bill that would have created funding for establishing local right to counsel programs and passed the Assembly and Senate. However, in early October 2021, AB1487 was vetoed at the Governor’s desk. Therefore, Staff is amending their recommendation so that the recommendations regarding a Right to Counsel policy will focus on supporting local and county level, rather than state-level, opportunities.

**PTC Motion & Deliberation:** PTC recommends that the City (1) endorse the concept of Right to Counsel, (2) advocate to the County—to the Courts and Supervisor—that an eviction court be established, and (3) support legislative efforts to fund Right to Counsel (AB1487).

The PTC was unanimously interested in following staff’s recommendation on this, though they did add that outreach should also be done at local law schools and law firms to build a network of potential providers.

**HRC Motion & Deliberation:** The HRC unanimously supported the PTC’s recommendation.

The HRC noted that this policy should be considered the seventh priority. Other discussion revolved around the need to network resources together and perform adequate outreach about existing resources.

8. **Tenant or Community Opportunity to Purchase Act (TOPA/COPA)** - **PTC recommends** that the City not move forward with this policy at this time. Additionally, PTC voted to request Council to direct staff to pursue other means for displacement at time of property sale. **HRC recommends** that the City not move forward with this policy at this time.

Tenant Opportunity to Purchase Act (TOPA) and Community Opportunity to Purchase Act (COPA) are both programs that provide the tenants within multifamily rental housing properties advance notice that the landlord is trying to sell the building. Advance notice is given to those tenants so that they can secure resources to purchase the building from the property owner instead of having the property owner put the building on the open market.

TOPA/COPA ordinances are being explored by several Bay Area jurisdictions as a means of stabilizing the community. However, because large amounts of capital are needed to purchase and Palo Alto property prices are high, staff does not recommend that the City pursue a TOPA or COPA ordinance at this time. An opportunity-to-purchase ordinance does not address the most urgent needs of the community and would detract from development of other policies.

**PTC Motion & Deliberation:** PTC recommends that the City not move forward with this policy at this time. Additionally, PTC voted to request Council to direct staff to pursue other means for displacement at time of property sale.
The PTC was very interested in this idea, though they did understand that resources are limited. While the PTC agreed with staff that pursuing TOPA currently was not the best use of time, they also asked Council consider directing staff to pursue other means of preventing displacement at the point of sale, which may or may not include giving a period of time of notice that a sale is going to occur.

**HRC Motion & Deliberation:** The HRC recommended to not move forward with this policy.

Other discussion revolved around the policy being a nice idea, but harder to put into practice due to the high purchase prices in Palo Alto.

9. **Proactive Rental Inspection Program** - PTC recommends that the City not move forward with this policy at this time. HRC supports PTC’s recommendation to not move forward with this policy at this time.

Proactive rental inspection programs are another powerful renter protection tool being explored by neighboring jurisdictions. A proactive rental inspection program would mean that building inspectors routinely visiting the entire rental housing inventory to make sure that the units are safe and legal. Traditionally, proactive rental inspection programs have the most impact in jurisdictions where rental housing units may be substandard.

Given the City’s limited available resources in the code enforcement program, staff does not recommend pursuing this policy at this time. Instead, staff recommends ensuring that tenants are aware of how they can report code violations to the City if their landlords are not responsive.

**PTC Motion & Deliberation:** PTC recommends that the City not move forward with this policy at this time.

The PTC agreed with staff’s recommendation about this policy and unanimously recommended that Council not consider it.

**HRC Motion & Deliberation:** The HRC voted to support staff and the PTC’s recommendation not to consider this policy.

Other discussion revolved around whether a policy such as this would actually impact people who provide substandard housing.

**Summary of Key Issues:**
Staff is seeking Council direction on nine renter protection policies with regards to:
A. Which policies are supported;
B. What specific directives/parameters should staff focus on in the policy development; and
C. Establish priority of individual policies for the work program.

Renter protection policies:

1. Rental Survey Program
2. Expand Tenant Relocation Assistance
3. Eviction Reduction Program
4. Anti Rent-Gouging Policy
5. Security Deposit Limit
6. Fair Chance Ordinance
7. Right to Counsel
8. Tenant/Community Opportunity to Purchase Act (TOPA/COPA)
9. Proactive Rental Inspection

Policy Implications:
The proposed policy development is a result of the 2017 and 2018 Council Colleagues memos directing staff to research and propose policies to support renters. Renter protections is generally consistent with overarching goals in the Comprehensive Plan/Housing Element to provide adequate housing for all.

Resource Impacts:
Resource impacts associated with development of policies and associated implementation requirements will require additional analysis. Staff has provided in the discussion of each policy above the general resource implications and challenges for development.

Timeline:
Upon direction from City Council, staff will begin development of the policies. Staff will subsequently work with the PTC and other appropriate bodies to draft ordinances reflecting Council direction. Staff anticipates returning to the PTC in Spring 2022 with draft ordinances for review.

In addition, the Planning and Development Services Department continues to find ways to gather qualitative information from local Palo Alto renters to better understand the challenges they face. It is worth noting that the percentage of renters in Palo Alto (i.e. 46%) surprises people because renter voices are not routinely heard at community engagement events. A significant undertaking for this program is to strengthen the connection between the City and its renters, allowing the renters to understand that their needs and desires are considered.
Stakeholder Engagement:
Staff conducted outreach with the Palo Alto renter population in a variety of different settings. Staff acted as a liaison in conversations with the Palo Alto Renter Association (PARA), created several webinars to engage the public and educate them about laws that applied specifically to the renter population. Staff also created three webinars in partnership with local providers in order to decrease the barriers to access, showing renters who to reach out to in times of need. Ultimately, all of these webinars and information are cataloged on the City’s online Renter Resource Portal.  

Staff conducted interviews with property owners, both market rate and below market rate, property managers, and tenants to gather feedback on the proposed policies. Multiple forms of outreach were done over the phone and via email, which can be seen in Attachment F. While centering on the needs of the most vulnerable is essential, staff wants to engage with all stakeholders in the policy creation process. Members of the public will also be able to comment on these policies during the related public hearings.

As staff moves to the next phase of policy research and development, a concentrated outreach effort will be conducted to reach a more diverse group in the community to have increased representation and engagement in the policy development.

Environmental Review:
This discussion is not a project under the California Environmental Quality Act.

23 [https://www.cityofpaloalto.org/Departments/Planning-Development-Services/Long-Range-Planning/Renter-Resources](https://www.cityofpaloalto.org/Departments/Planning-Development-Services/Long-Range-Planning/Renter-Resources)
Attachments:
Attachment A: Existing Renter Protections (DOCX)
Attachment B: Overview of Comparable California Cities with Renter Protections (DOCX)
Attachment C: Potential Metrics for Tenant Relocation Assistance (DOCX)
Attachment D: Just Cause Reasons (DOCX)
Attachment E: Just Cities Policy Comparison (PDF)
Attachment F: Challenge Grant Outreach Efforts (DOCX)
Existing Renter Protections
Some local and state renter protections currently exist and serve as the foundation for proposed enhancements. The following are permanent protections currently in place in Palo Alto.

- **One-Year Lease Requirement** - The one-year lease requirement has been in place since 1981 and requires a landlord to offer a tenant a lease with a minimum term of one year in writing (Palo Alto Municipal Code (PAMC) Chapter 9.68).

- **Mediation Program** - The Palo Alto Mediation Program has been in place since 2002 and requires landlords and tenants to participate in the conciliation and mediation of rental housing disputes (PAMC Chapter 9.72).

- **Tenant Relocation Assistance** - Tenant Relocation Assistance is a more recent protection, passed in 2018, for tenants in properties with 50+ units that are part of a no-fault eviction (PAMC Chapter 9.68). The required assistance includes a flat fee for tenants being evicted, based on the unit size.

There are several recent State bills that apply to renters. The following renter protections apply:

- **AB838** *(State Housing Law)* – AB838 requires jurisdictions to investigate any claims that are made about substandard housing. This legislation will not expire.

- **AB978** *(Mobile Home Park Rent Caps)* – AB978 adapts the previously passed AB1482’s rent cap and applies it to mobile home parks in two incorporated cities, lowering the rent cap to 3%. This legislation will expire on January 1, 2030.

- **AB1482** *(Tenant Protection Act of 2019)* - AB1482 requires a landlord to have a “just cause” to terminate a tenancy and caps annual rent increases at 5% plus the local rate of inflation as an anti-rent-gouging mechanism. This legislation will expire on January 1, 2030.

- **AB1487** *(Legal Services Trust Fund Commission)* – AB1487 establishes an income-limited legal fund that will help distribute grants to legal organizations so that they can prevent homelessness by providing a variety of housing related services. This legislation passed through the Assembly and Senate, but must still be signed by the Governor before October 10, 2021, to become law.

- **SB330** *(The Housing Crisis Act of 2019)* - SB330 predominantly concerns streamlining the housing development process. In addition, there are tenant relocation benefits and right of first refusal protections in the law. This legislation will expire on January 1, 2025.
<table>
<thead>
<tr>
<th>City Name</th>
<th>Population</th>
<th>Rental Survey</th>
<th>Tenant Relocation</th>
<th>Just Cause Eviction</th>
<th>Rent Control</th>
<th>1482 Patch</th>
<th>Fair Chance</th>
<th>Security Deposit Limit</th>
<th>Right to Counsel</th>
<th>TOPA/COPA</th>
<th>Proactive Rental Inspection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Palo Alto</td>
<td>64,403</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<td></td>
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</tr>
<tr>
<td>City of Alameda</td>
<td>78,522</td>
<td>x</td>
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<td></td>
<td></td>
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</tr>
<tr>
<td>Berkeley</td>
<td>120,926</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td>*</td>
</tr>
<tr>
<td>Concord</td>
<td>129,183</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East Palo Alto</td>
<td>28,155</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
<td>x</td>
<td></td>
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<tr>
<td>Mountain View</td>
<td>82,379</td>
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<td></td>
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</tr>
<tr>
<td>Oakland</td>
<td>433,031</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
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<td>*</td>
</tr>
<tr>
<td>Redwood City</td>
<td>76,815</td>
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<tr>
<td>San Francisco</td>
<td>802,235</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
<td>x</td>
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<td>x</td>
</tr>
<tr>
<td>San Jose</td>
<td>1,002,000</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
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<td></td>
<td>* *</td>
</tr>
<tr>
<td>Santa Cruz</td>
<td>64,608</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Santa Monica</td>
<td>91,577</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

This attachment provides a statewide overview of what similar local cities have adopted. Of note is that while Menlo Park is a similar neighboring city, no renter protections exist and therefore the city is not included. Jurisdictions that received a Challenge Grant fellow and support the 3Ps approach are highlighted in orange.

* represents a current ordinance
* * represents currently in pursuit or consideration

Though not in the Bay Area, Santa Monica, California, is a comparable city with substantial renter protections.
Potential Metrics for Determining Tenant Relocation Assistance

- **Use of Other Assistance Programs**
  - Individuals participating in other income-subsidizing programs such as Medicaid, SNAP, or other programs could provide proof of participation in said programs, which could illustrate a need.
  - Requiring proof of participation in income-subsidizing programs does not necessarily mean an individual is rent-burdened, though they would most likely be low income households.

- **Pinpointing a Rent that Rent-burdened Tenants Typically Pay**
  - Pinpointing this rent without a rental survey to verify information would be difficult
  - Creating a rent based on a maximum occupancy for a unit size and using one third of that household size’s income (an affordable rent according to HUD) could create an approximate number, but it would most likely not speak to every situation.

<table>
<thead>
<tr>
<th>Unit Size</th>
<th>HUD Occupancy Limit</th>
<th>Santa Clara County Area Median Income (AMI) for Occupancy Limit</th>
<th>Affordable Monthly Rent (AMI/36)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>2</td>
<td>$70,800.00</td>
<td>$1967.00</td>
</tr>
<tr>
<td>1-Bedroom</td>
<td>3</td>
<td>$106,200.00</td>
<td>$2950.00</td>
</tr>
<tr>
<td>2-Bedroom</td>
<td>4</td>
<td>$141,600.00</td>
<td>$3934.00</td>
</tr>
<tr>
<td>3-Bedroom</td>
<td>5</td>
<td>$177,000.00</td>
<td>$4917.00</td>
</tr>
</tbody>
</table>
Reasons for “Just Cause” Evictions

The following is an excerpt from TenantProtection.org that outlines the Tenant Protection Act (AB1482). Under the Tenant Protection Act, eligible renters are protected from unjust evictions. This means a landlord must have a valid reason for eviction as outlined below:

At-Fault Evictions:

1. Failure to pay rent.
2. Breach of a material term of a lease that continues after a written notice of the right to cure. The written notice must provide at least three days to cure. If the tenant does not cure, then a non-curable notice of termination may be served.
3. Maintaining, committing, or permitting a nuisance.
4. Destruction of property or creating a nuisance.
5. Failure to sign a lease with similar terms after the expiration of a lease.
6. Criminal activity on the property, or criminal activity or criminal threat directed at an owner or manager of the property.
7. Assigning and subletting in violation of the lease.
8. Refusal to provide the owner access to the unit.
9. Using the premises for an illegal purpose.
10. Failure of a licensee, agent or employee of the landlord to vacate after termination of the relationship.
11. Failure of a tenant to deliver possession after the tenant gives a notice to move out or after the landlord and tenant agree in writing that the tenant will vacate.

No-Fault Evictions:

1. Owner or relative move in only where the original lease or a new lease allows for an owner or relative to move in. The eviction must be done by an owner or the owner’s spouse, domestic partner, children, grandchildren, parents, or grandparents. The original lease or new lease must reserve the right to move in an owner or the owner’s spouse, domestic partner, children, grandchildren, parents, or grandparents.
2. Withdrawal of the unit from the rental market
3. Where a city or county agency requires the unit to be vacated due to uninhabitable conditions.
4. Intent to demolish or substantially remodel a unit. “Substantially remodel” means the replacement or substantial modification of any structural, electrical, plumbing or mechanical system that requires a permit, or the abatement of hazardous material, including lead, mold or asbestos that cannot be reasonably accomplished in a safe manner with the tenant in the unit and that requires the tenant to vacate for more than thirty days. Cosmetic improvements alone, including painting, decorating, and minor repairs, do not qualify, nor does any work that can be done safely with the tenant in the unit.
Comparison of National North Star Fair Chance Housing Laws

As part of a national reckoning with the profound injustice and senselessness of US mass incarceration policies, criminal justice reforms have occurred at the federal, state, and local levels. However, when people who have “done their time”, including those for wrongful convictions, return home they are met with extreme and discriminatory barriers that prevent them from accessing basic support needed to successfully reintegrate back into society.

A growing number of jurisdictions across the nation have been addressing these injustices including through the passage of Fair Chance Housing laws that seek to remove barriers to housing for people with a criminal record. However, there are only a few policies that we consider north star policies. Only the cities of Seattle, Berkeley, and Oakland have passed policies that completely do away with relying on criminal background checks, at all stages of the rental process, on all forms of housing. Why use a tool of the criminal background check that has no proven correlation between one's criminal history and success as a future tenant, especially when it has been proven to be extremely unreliable and discriminatory? The commonsense and racially just response would be what these three cities have enacted. In addition, we consider the Portland policy to be a north star policy because when faced with State preemption issues that prevented them from enacting a similar policy, instead of giving up, Portland government and formerly incarcerated leaders worked together to craft a problem-solving policy. Here's a comparison of the main policy terms.
## Comparison of National North Star Fair Chance Housing Laws

<table>
<thead>
<tr>
<th>Policy Term</th>
<th>Seattle</th>
<th>Portland</th>
<th>Berkeley</th>
<th>Oakland</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Links</strong></td>
<td>Link to Ordinance&lt;br&gt;Link to FAQ</td>
<td>Link to Ordinance&lt;br&gt;Link to FAQ</td>
<td>Link to Ordinance</td>
<td>Link to Ordinance&lt;br&gt;Link to FAQ for Formerly Incarcerated People&lt;br&gt;Link to FAQ for Housing Providers</td>
</tr>
<tr>
<td><strong>What the Ordinance Does</strong></td>
<td>Prohibits housing providers from asking about and using criminal history and checks in rental housing advertising, applications, or decision-making.</td>
<td>Criminal background checks are still allowed, but the Ordinance prohibits discrimination on the basis of criminal history.</td>
<td>Prohibits housing providers from asking about and using criminal history and checks in rental housing advertising, applications, or decision-making.</td>
<td>Prohibits housing providers from asking about and using criminal history and checks in rental housing advertising, applications, or decision-making.</td>
</tr>
<tr>
<td><strong>Public Policy Rationale</strong></td>
<td>Focus on racial justice and addressing racial inequities in the criminal justice system, as well as the direct link between stable housing and successful reintegration.</td>
<td>Focus on racial justice, and eliminating screening barriers that prevent people’s right to housing.</td>
<td>Focused on homeless prevention. There’s a California State pre-emption on local anti-discrimination policies.</td>
<td>Focused on homeless prevention. There’s a California State pre-emption on local anti-discrimination policies.</td>
</tr>
<tr>
<td><strong>Housing Type Explicitly Covered</strong></td>
<td>All Housing Units- Including Private, Section 8 or other Federal Housing Authority, and affordable housing units (including those operated by nonprofits)</td>
<td>All housing units- Including Private and Section 8 housing units.</td>
<td>All housing units- Including Private, Section 8 or other Federal Housing Authority, and affordable housing units (including those operated by nonprofits)</td>
<td>All housing units- Including Private, Section 8 or other Federal Housing Authority, and affordable housing units (including those operated by nonprofits)</td>
</tr>
<tr>
<td><strong>Housing Type Explicitly Exempted</strong></td>
<td>- Single family home where owner occupies part of the home  &lt;br&gt;- Accessory Dwelling Units where the owner resides on the same lot</td>
<td>- Units shared with a Landlord, roommate, or a sub-lessee using the unit as a primary residence  &lt;br&gt;- Accessory Dwelling Units where the owner resides on the same lot  &lt;br&gt;- Duplexes where the owner occupies the second unit as a principal residence  &lt;br&gt;- Non-profit housing  &lt;br&gt;- Units not rented to, or advertised for rental to the general public</td>
<td>- Single-family homes, duplexes, triplexes, and Accessory Dwelling Units where the owner occupies one of the units or bedrooms as a principal residence  &lt;br&gt;- Tenants who seek to add a co-tenant or a roommate</td>
<td>- Single-family homes, duplexes, triplexes, and Accessory Dwelling Units where the owner occupies one of the units or bedrooms as a principal residence  &lt;br&gt;- Tenants who seek to add a co-tenant or a roommate</td>
</tr>
<tr>
<td><strong>Advertisement, Housing Application &amp; Review process</strong></td>
<td>Removes any requirement to disclose any Conviction History unless it's for a “legitimate business reason”</td>
<td>Option 1: Low-barrier (lookback period)  &lt;br&gt;- Denial only for misdemeanor offences that occurred within the past 3 years</td>
<td>Prohibits advertisement, applications, and review process that would require disclosure of criminal history.</td>
<td>Prohibits advertisement, applications, and review process that would require disclosure of criminal history.</td>
</tr>
</tbody>
</table>
### Comparison of National North Star Fair Chance Housing Laws

<table>
<thead>
<tr>
<th>When would the Background Check be Allowed/What kind of Background Check is Allowed</th>
<th>Landlord can check to see if applicant's on the Sex Offenders Registry per county, statewide, or national sex offender registry</th>
<th>Under the low-barrier option, background checks may be conducted for Misdemeanor offenses that occurred within the past 3 years and felony offenses that occurred within the past 7 years</th>
<th>Housing providers may check the State's Lifetime Sex Offender List, but must first make a conditional housing offer, receive the written consent of an applicant to check, and allow the applicant the chance to provide rebutting or mitigating information if required by federal or state law, HUD funded units may conduct limited background checks. HUD funded housing subject to federal regulations that mandate automatic exclusion if applicant is subject to lifetime sex offender registration and/or convicted of meth manufacture/production</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Landlords can set the criteria they choose if they disagree with the low-barrier criteria, but must provide information to the applicant about what they were denied for, the specific business interest reason the landlord has determined as basis for mandate automatic exclusion, and allow applicants opportunity to provide mitigating evidence.</td>
<td>Landlords are not able to deny applicants on the basis of arrests that did not result in conviction; participation/completion of a deferral of judgement program; convictions that have been judicially dismissed, expunged, voided or invalidated; conviction for a crime that is no longer illegal in the state of Oregon; or convictions issues through the juvenile justice system.</td>
<td>Housing providers may check the State's Lifetime Sex Offender List, but must first make a conditional housing offer, receive the written consent of an applicant to check, and allow the applicant the chance to provide rebutting or mitigating information if required by federal or state law, HUD funded units may conduct limited background checks. HUD funded housing subject to federal regulations that mandate automatic exclusion if applicant is subject to lifetime sex offender registration and/or convicted of meth manufacture/production</td>
</tr>
</tbody>
</table>

**Option 2: Individualized assessment model**
- Landlords can set the criteria they choose if they disagree with the low-barrier criteria, but must provide information to the applicant about what they were denied for, the specific business interest reason the landlord has determined as basis for mandate automatic exclusion, and allow applicants opportunity to provide mitigating evidence.

- Landlords are not able to deny applicants on the basis of arrests that did not result in conviction; participation/completion of a deferral of judgement program; convictions that have been judicially dismissed, expunged, voided or invalidated; conviction for a crime that is no longer illegal in the state of Oregon; or convictions issues through the juvenile justice system.
## Comparison of National North Star Fair Chance Housing Laws

<table>
<thead>
<tr>
<th>Does the City have a First in Time rental requirement policy?</th>
<th>Yes</th>
<th>Yes</th>
<th>No</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Allowable Disqualification of Applicant</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>If on Sex Offenders registry for adult conviction and there's a “legitimate business interest” where there must be “reliable evidence” of a nexus between resident or property safety in light of:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>● Nature &amp; severity of conviction</td>
<td>● Misdemeanor and felony offenses that occurred within the lookback periods. Applicants denied for criminal history have an automatic right to appeal and provide supplemental evidence.</td>
<td>● Applicant is on the State's Lifetime Sex Offender Registry</td>
<td>● Applicant is on the State's Lifetime Sex Offender Registry</td>
<td>● Applicant is on the State's Lifetime Sex Offender Registry</td>
</tr>
<tr>
<td>● Number &amp; types of conviction</td>
<td>● For HUD funded units, applicant has been convicted for manufacturing methamphetamine on the premises of federally assisted housing</td>
<td>● For HUD funded units, applicant has been convicted for manufacturing methamphetamine on the premises of federally assisted housing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>● Time lapsed from conviction date</td>
<td>● Evidence of good tenant history before and/or after conviction</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>● Age at time of conviction</td>
<td>● Any supplemental info re rehabilitation, good conduct, and additional info from applicant</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>● Evidence of good tenant history before and/or after conviction</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>● Any supplemental info re rehabilitation, good conduct, and additional info from applicant</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Administrative Complaint Process</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>File complaint with Director of Seattle Office for Civil Rights. Applicant can appeal Director's decision to the Seattle Human Rights Commission</td>
<td>N/A</td>
<td>File a complaint with the City of Berkeley. Close family members may file a complaint on behalf of their formerly incarcerated family member(s), even if they do not reside in the unit that their family member lives in or is seeking to move into. Close family members include a spouse, domestic partners, parents, children, siblings, grandparents, grandchildren.</td>
<td>File a complaint with the City of Oakland. Housing providers can be fined for up to $1,000 per violation.</td>
<td></td>
</tr>
<tr>
<td>Civil Penalties are no more than:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>● $11,000 if the respondent has not been determined to have committed any prior violation</td>
<td>File a complaint with the City of Berkeley. Close family members may file a complaint on behalf of their formerly incarcerated family member(s), even if they do not reside in the unit that their family member lives in or is seeking to move into. Close family members include a spouse, domestic partners, parents, children, siblings, grandparents, grandchildren.</td>
<td>File a complaint with the City of Oakland. Housing providers can be fined for up to $1,000 per violation.</td>
<td></td>
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</tr>
<tr>
<td>● $27,500 if the respondent has been determined to have</td>
<td></td>
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</tr>
</tbody>
</table>

HUD funded housing subject to HUD regulations that mandate automatic exclusion if applicant is subject to lifetime sex offender registration and/or convicted of meth manufacture/production on federally assisted housing.

on HUD funded housing. However, these housing providers must seek written consent from the applicant, provide the applicant with a copy of the background check, and provide the applicant a chance to submit rebutting or mitigating information.
### Comparison of National North Star Fair Chance Housing Laws

<table>
<thead>
<tr>
<th>Right of Individuals to Sue to Enforce</th>
<th>Yes</th>
<th>Yes</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Landlord Retaliation Protection</strong></td>
<td>Explicitly covered</td>
<td>Explicitly covered</td>
<td>Explicitly covered</td>
</tr>
<tr>
<td><strong>Limits to Financial Screening Criteria</strong></td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Housing providers can be fined at least $1,000 and up to $10,000 for each violation.

Additional civil penalties of up to $5,000 per violation committed against a person who is disabled within the meaning of California Government Code section 12926 et seq., or is aged sixty-five (65) or over.

- committed one other violation during the five-year period ending on the date of the filing of this charge
- $55,000 if the respondent has been determined to have committed two or more violations during the 7 year period ending on the date of the filing of this charge

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- Additional civil penalties of up to $5,000 per violation committed against a person who is disabled within the meaning of California Government Code section 12926 et seq., or is aged sixty-five (65) or over.
Challenge Grant Outreach Efforts

There are 11,764 rental units in Palo Alto, according to ACS data. When doing outreach in the community, many different approaches were taken by staff:

Contact Medium

- City Newsletter
- City Website
- Email
- Partner Networks
- Phone Calls
- Service Providers
- Social Media
- Word-of-Mouth

Direct Contact

- 9,992 landlords of multifamily housing identified by partnering with Palo Alto Utilities
  - 92 individual emails sent
- 18 interviews conducted
  - Service Providers
    - 2 Non-Profit Developers
    - 2 Case Managers
  - Property Managers
    - Properties with 1-5 Units: 2
    - Properties with 6-49 Units: 4
    - Properties with 50+ Units: 2
  - Property Owners
    - Properties with 1-5 Units: 1
    - Properties with 6-49 Units: 1
    - Properties with 50+ Units: 4

Indirect Contact

- Webinars
  - 3 on Eviction Moratoriums
  - 1 on Affordable Housing
- Renter Resource Portal
- Partner Communication
  - LifeMoves
  - Alta Housing
  - Project Sentinel
  - Palo Alto Renters’ Association

Comparable Cities Interviewed

- Berkeley
- Concord
- East Palo Alto
- Menlo Park
- Mountain View
- Redwood City
- San Jose
- Santa Cruz
City of Palo Alto
City Council Staff Report

Meeting Date: 11/15/2021

Title: Review and Provide Direction on Terms of Lease between the City of Palo Alto and the Palo Alto History Museum for the ROTH Building (300 Homer Ave) (10:30 - 11:30 PM)

From: City Manager

Lead Department: Administrative Services

Recommendation
Staff recommends that the City Council review and provide direction on the key lease terms between the City and Palo Alto Museum for the ROTH Building.

Executive Summary
As part of the FY 2022 Adopted Budget process, Council approved an updated path forward on the ROTH Building, 300 Homer Ave. including financial support and direction to negotiate a long-term lease with the Palo Alto History Museum (also known as Palo Alto Museum, PAM). Council directed staff to use a combination of the following funds to finance the rehabilitation of the building: Stanford University Medical Center Fund, Parks Impact Fees and Community Center Impact Fees. A table in the background section outlines the $12.3 million rehabilitation project as set forth in plans developed by PAM, specifically the remaining planned project cost of $10.5 million. This work is intended to produce a “warm shell” at 300 Homer Avenue for further development and use by the PAM as a history museum.

Since August staff has been working with PAM’s legal team to negotiate key business terms for a final lease agreement that will address both the construction and rehabilitation phase and subsequent long-term use of the facility. The parties have reached tentative agreement on many of the key terms for a new lease agreement. This report presents the list of key terms and seeks Council direction on the remaining open issues. These issues include expectations for fee-setting, as well as financial responsibilities for a security deposit, long-term maintenance, City fees, prevailing wage compliance, and payment and performance bonds.

In total these issues have a potential impact of approximately $182,000 in the short-term and additional long-term costs if the City assumes long-term maintenance obligations. If such costs are borne by the City, in whole or in part, they would increase
the amount of funding needed from the SUMC and impact fees or other sources.

With Council direction on these remaining issues staff believes we can move forward with preparing a draft lease for review and approval by PAM and the Council.

**Background**

In April 2000, the City Council approved the $1,957,000 purchase of the Roth Building and its 0.41 acre site for potential development as a “public facility or alternative use if a public facility is not feasible,” in conjunction with the South of Forest Avenue Coordinated Area Plan (SOFA CAP). On May 20, 2002, Council approved a Request for Proposals (RFP) and directed staff to solicit proposals for the lease of the Roth Building. The RFP specified that preference be given to non-profit groups located in or serving Palo Alto, that the property be improved and operated at no cost to the City, and that public access to the Roth Building restrooms by users of the neighboring park be provided.

In response to the RFP, one proposal was received in November 2003. The Museum proposed to restore, preserve, and improve the historic Roth Building for use as a museum. The Museum’s proposal was accepted by the Council in April 2004, at which time staff sent the Museum a draft Option and Lease Agreement for its review. On May 14, 2007, Council authorized the Mayor to execute the Option Agreement. The Option Agreement (2007 Lease Option) was executed on June 22, 2007 with a twenty-four-month term.

Since 2007, PAM personnel and City staff have examined a variety of proposals to fund the capital and operating needs of the ROTH Building Museum. Although the City Council extended the 2007 Lease Option several times, in late 2018 the 2007 Lease Option lapsed and is no longer in effect. Additional background information is provided by prior staff reports listed in Attachment B.

On June 21, 2021 – As part of the FY2022 budget adoption the Council approved the following motions related to the Roth Building providing direction for a tentative funding plan and long term lease (CMR:12307, Minutes):

**Motion 1**

D. Approve the tentative funding plan for the ROTH building rehabilitation project and direct Staff to return to Council with refined level of impact fee fund eligibility based on actual construction cost & facility usage in consultation with the Palo Alto Museum

**Motion 2**

A. Direct Staff to negotiate a long-term lease between the City and the Palo Alto Museum (PAM) for the Roth Building, which would allow for donor and restricted funds for the rehabilitation;
B. Release the amended Lease Agreement to the PAM for timely review and finalization; and

C. Commit to a partnership with the PAM for the rehabilitation of the Roth Building and for mutual long-term success of the project.

Below is a summary table of the tentative funding plan for the $10.5 million remaining project costs of the $12.3 million ROTH building rehabilitation as approved by the Council in June 2021.

<table>
<thead>
<tr>
<th>FUNDING SOURCE</th>
<th>ESTIMATED FUNDING CONTRIBUTION</th>
<th>PROJECTED GAP TO PHASE 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>TDR proceeds and a $1.0 million contribution from the General Fund</td>
<td>$4.9 M</td>
<td>$10.5M</td>
</tr>
<tr>
<td>Grants from the County of Santa Clara (roof replacement $0.3 million)</td>
<td>$0.3 M</td>
<td></td>
</tr>
<tr>
<td>Library impact fees designated for the establishment of the City archives</td>
<td>$0.3 M</td>
<td></td>
</tr>
<tr>
<td>PAM cash on hand (MGO reports approximately $0.8 million available with some needs for operating costs)</td>
<td>$0.5 M</td>
<td></td>
</tr>
<tr>
<td><strong>Readily Available Funds</strong></td>
<td><strong>$6.0 M</strong></td>
<td><strong>($4.5 M)</strong></td>
</tr>
<tr>
<td>PAM pledges; MGO Audit report estimated $0.2 million are more likely to be collectable</td>
<td>$0.2 - $0.5 M</td>
<td></td>
</tr>
<tr>
<td><strong>Additional Funds including pledges</strong></td>
<td><strong>$6.2 - $6.5 M</strong></td>
<td><strong>($4.0 – 4.3M)</strong></td>
</tr>
<tr>
<td>Stanford University Medical Center (SUMC) Funds – Community and Infrastructure</td>
<td>$2.0 M</td>
<td></td>
</tr>
<tr>
<td>Parks Impact Fees</td>
<td>$0.35 M</td>
<td></td>
</tr>
<tr>
<td>Community Center Impact Fees</td>
<td>$1.65 M</td>
<td></td>
</tr>
<tr>
<td><strong>NEW CITY FINANCIAL SUPPORT</strong></td>
<td><strong>$10.5 M</strong></td>
<td><strong>$0</strong></td>
</tr>
</tbody>
</table>

Since June 2021 staff has been meeting internally and, beginning in August, with representatives of the Museum including their legal team. The parties mutually agreed that it was essential to work out the key lease terms in order to begin preparing a new lease agreement structured on those key terms.

As an interim check-in staff met with Council in closed session on August 21. Council provided input on draft key lease terms. Pursuant to Council’s input during closed sesssion, staff has continued to meet with representatives of the Museum on the draft terms, which are outlined below.
Discussion
Staff has been meeting with PAM’s legal team and has reached tentative agreement on many of the broad key business terms that were originally presented in draft form to Council in closed session on August 16th. The summary of key lease terms is attached to the staff report (Attachment A). In addition, staff has used the 2007 Lease Option, agreed to by both the City and PAM, as a starting place for a number of the business terms for the new lease. Staff has worked through negotiations always with a priority of compliance with statutory and regulatory requirements and meeting the intended benefit to the public.

Outstanding Items Requiring Council Direction

The six items presented below represent the outstanding issues including requests from PAM for additional City contributions or reimbursements. After direction from Council on the outstanding items, the key lease terms will be used to develop a new draft lease agreement for PAM’s team to review. Once both parties are in alignment on terms, the complete lease will return to the City Council for final approval.

1. **Security Deposit:**
   - Based on the currently proposed combined TDR ($3.9 million) and City funding ($5.3 million) contributions of $9.2 million, which is a far greater level of public investment than the zero-cost project that was the basis for the 2007 Lease Option, City initially proposed a $150,000 security deposit to provide sufficient resources to respond to any urgent issues if Museum defaults on any of its obligations under the lease.
   - Museum requests that any security deposit be limited to the $10,000 security deposit contemplated in the 2007 Lease Option.

2. **Maintenance:** Museum will be responsible for all maintenance and repair obligations for the Premises, provided that the City will be responsible for the maintenance of the Heritage Park Restrooms and maintenance of trees at the Premises.
   - Staff seeks confirmation about the parties’ responsibility for long-term maintenance and replacement of structural aspects of the building and its building systems (such as the roof and HVAC). The 2007 Lease Option implies that the Museum was to be responsible for all long-term maintenance and replacement of structural items and building systems including the requirement that the Museum prepare a long-term maintenance plan to be approved by the City Manager.
   - Should Council direct that the City assume this responsibility, staff recommends the ability to require a facility surcharge on any fees the museum charges for visiting/use of the facility, reserved for capital
infrastructure. This term has not been coordinated with the museum yet, however, staff would bring this back as part of the continuing discussions as directed.

3. **Permit & Process Fees:**
   - The Museum requests waiver of permitting and processing fees related to the building improvements, including reimbursement by the City of the approximately $100,000 in fees already paid by the Museum in conjunction with the existing permits and approvals. The Museum cites the City’s Policy and Procedures 1-25, Public/Private Partnerships (Policy 1-25) to support its request.
   - Policy 1-25 applies to public/private partnership which are defined as:
     
     > "[A]n agreement between the City and a nonprofit or private organization to provide services or to assist in funding of public facilities and programs. Such partnerships may take various forms, including:
     > 
     > - Contributions of City matching funds for construction of facilities to be owned and controlled or operated by the City.
     > - Provision of facilities to the private partner at no charge or at a subsidized rent."

     In the event of a public/private partnership, Policy 1-25 further provides that for Facilities Proposals:
     
     > "Staff may recommend that any standard City processing or use fee authorized under the Municipal Fee Schedule, excluding fees and charges levied by City of Palo Alto Utilities or other City enterprise fund programs, should be waived as a condition of the City’s participation. Waiver of fees may be granted by the Council and limited to those fees associated with a construction or capital improvement project which, upon its completion, results in a new or improved public facility, building or park, or some portion thereof, **that will be solely owned or controlled by the City.** In the event that only a portion of a construction or capital improvement project will result in a new or improved City facility, building or park, or portion thereof, then the Council may waive only that portion of any associated fee directly relating to the construction, improvement or enhancement of the City facility, building or park." (emphasis added)

     - Policy 1-25 does not provide for a waiver in this situation because the project does not result in "a new or improved public facility which will be solely owned or controlled by the City."
     - Staff seeks direction from the Council as to if it wishes to waive the permitting and processing fees related to the building improvements,
including reimbursement by the City to the Museum of the approximately $100,000 in fees already paid by the Museum, outside of current City policy. These fees are full cost recovery for the staff necessary to ensure compliance and inspection with building and planning codes. Therefore, if waived, these costs would be an additional project cost to the City. Estimated cost: $100,000 plus inspection fees incurred during construction.

4. Prevailing Wage Reporting: Pursuant to the Labor Code, the Museum must require prevailing wages be paid for construction of the building improvements. The City cannot waive this state requirement.
   - The Museum agrees to payment of prevailing wages, but requests City reimburse Museum for any cost associated with software that its contractor needs for prevailing wage compliance. Estimated cost: $15,000.
   - Staff has deferred the request because tracking and reporting of prevailing wages are customarily covered by the contractor as part of its construction contract. The museum is coordinating with their contractor on the particulars of this request.

5. Payment and Performance Bonds: A payment bond is required by law per Civil Code section 9550 for construction work on public building over $25,000. A performance bond is usually bundled with the payment bond. A payment bond protects subcontractors since they cannot lien against public property. A performance bond protects the City against default by contractors. City requirements for payment and performance bonds for public works projects are set forth in Section 2.30.500 of the Palo Alto Municipal Code.
   - The Museum agrees to obtain the bonds, but requests that City increase its contribution to the rehabilitation project to account for the costs of such bonds. Estimated cost: $67,000.

The City & Third-Party Use of the Community Room/Space term reflect general alignment. Both parties agree that policies and use must meet requirements under some of the restricted funding sources including but not limited to the community impact fees and are not to interfere with the core operations of making the Museum available to the general public. The parties agree that the City, community groups and other members of the public will be allowed to reserve and use the Community Room in accordance with procedures and fees to be periodically agreed upon by the parties, with such fees not to exceed fees for other similar facilities. Staff and the Museum plan to work on the policies and procedures as an attachment to the lease. Recommended principles to help guide that development include:
   - use shall not impede the routine business of the Museum for the public benefit and access
- Use of components of the facilities including fees and access levels must satisfy requirements under any restricted funds requirements (e.g. the community room, funded by community impact fees, should be available to the general public for a sufficient number of hours, and at a reasonable cost, consistent with community center facilities throughout the City)

- a minimum number of hours these spaces are available to the community

- fees must be approved by the City Council or designee (such as the City Manager), this is consistent with authorization requirements for other City facilities that are leased to non-profits for public use.

Staff expect some detailed discussion with PAM to craft the operating procedures.

**Timeline**
With input from Council staff will return to lease discussions with PAM and attempt to achieve resolution on the outstanding issues. Once the lease terms are agreed to staff will begin drafting a lease agreement and work with PAM to finalize. Staff will continue to prioritize completion of this lease timely and expects to return to Council in the new calendar year 2022 for lease approval. If there is impasse on any outstanding terms or issues then staff may return to Council earlier.

**Resource Impact**
As part of the FY2022 budget process Council approved funding to complete the rehabilitation of the Roth Building based on current estimates. Should the lease negotiations change any cost drivers such as the use of or access to areas allocated for City or community use consistent with proposed impact fee allocations then use of impact fee funding may decrease. If this is the case, Council may need to consider additional funds or different requirements from the Museum.

The additional short-term costs for the City associated with Museum’s requests total approximately $182,000 with additional long-term costs if the City assumes the long-term maintenance and replacement obligations for the buildings structural elements and building systems. Depending upon Council’s direction regarding these costs, the amount of funding needed from the SUMC and impacts fees, or other funding sources may require adjustment.

**Stakeholder Engagement**
Staff continues to meet with representatives of PAM including their counsel do discuss and negotiate the lease terms.

**Environmental Review**
The proposed action is to provide direction on next steps for staff efforts with respect to the future use of the Roth Building and does not constitute a project under the California Environmental Quality Act (CEQA).

Attachments:
- Attachment A: Summary Lease Terms between City and PAM
- Attachment B: Index of Prior Staff Reports
Roth Building – Proposed Lease Terms

Below is a summary of the key terms for the proposed lease of the Roth Building by the City of Palo Alto to the Palo Alto History Museum (“Museum”).

<table>
<thead>
<tr>
<th>LEASE PROVISION</th>
<th>SUMMARY</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. PREMISES:</strong></td>
<td>Roth Building (300 Homer Avenue) &lt;br&gt;Museum will lease the entire building and have exclusive use and control of the building including the courtyard area in front of building (‘lot line to lot line’), provided that City will have exclusive use of the restrooms on the northeast side of the building which will serve as public restrooms for Heritage Park (“Heritage Park Restrooms”). &lt;br&gt;City will obtain sublease/license to have exclusive use of the building’s Archive Room at no cost to the City, excluding utility costs. (see Item 10 below)</td>
</tr>
<tr>
<td><strong>2. TENANT USE:</strong></td>
<td>Museum will use the Premises for museum purposes and associated activities, including operation of a café and/or gift shop and event rentals of the Premises to support Museum operations (consistent with the use provisions in the expired 2007 lease option between City and Museum (“2007 Lease Option”)). &lt;br&gt;Museum requests a provision for impacts to hours of operation outside of control, such as natural disasters, or utility outages. Parties are in alignment and expect to address this during the formal lease language review.</td>
</tr>
<tr>
<td><strong>3. LEASE TERM:</strong></td>
<td>The lease term will be for 40 years, commencing upon mutual execution of the lease.</td>
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<tr>
<td><strong>4. RENT:</strong></td>
<td>$1 per year.</td>
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<tr>
<td><strong>5. SECURITY DEPOSIT:</strong></td>
<td><em>Outstanding Item – City Staff initially proposed a $150,000 security deposit to provide sufficient resources if Museum City initially proposed a $150,000 security deposit to provide sufficient</em></td>
</tr>
<tr>
<td>LEASE PROVISION</td>
<td>SUMMARY</td>
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<tr>
<td>defaults on any of its obligations under the lease. Museum has proposed that any security deposit be limited to the $10,000 security deposit contemplated in the 2007 Lease Option.</td>
<td>resources if Museum defaults on any of its obligations under the lease</td>
</tr>
<tr>
<td><strong>6. AS IS CONDITION:</strong></td>
<td>Museum will accept the Premises in its “As Is” condition.</td>
</tr>
<tr>
<td><strong>7. OPERATING EXPENSES, INCLUDING UTILITIES:</strong></td>
<td>Museum will be responsible for all maintenance costs and expenses and utilities, provided that City will reimburse Museum for any costs related to the Heritage Park Restrooms and City’s proportionate share of operating expenses applicable to the Archives Room.</td>
</tr>
<tr>
<td><strong>8. TAXES:</strong></td>
<td>Museum will be solely responsible for property tax obligations, if any, and any other tax obligations, if any, arising from Museum’s lease of the Premises.</td>
</tr>
<tr>
<td><strong>9. MAINTENANCE OBLIGATIONS:</strong></td>
<td>Museum will be responsible for all maintenance and repair obligations for the Premises, except:</td>
</tr>
<tr>
<td></td>
<td>• City will be responsible for the maintenance of the Heritage Park Restrooms.</td>
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<td></td>
<td>• City also be responsible for the maintenance of trees on the Premises, including the oak tree in the building’s courtyard.</td>
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<td></td>
<td><strong>Outstanding Item</strong> – Which party is responsible for long-term maintenance and replacement of structural aspects of the building and building systems?</td>
</tr>
<tr>
<td></td>
<td>The 2007 Lease Option implies that the Museum was to be responsible for all long-term maintenance and replacement of structural items and building systems including the requirement that the Museum prepare a long-term</td>
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<tr>
<td></td>
<td>Staff seeks confirmation about the parties’ responsibility for long-term maintenance and replacement of structural aspects of the building and its building systems (such as the roof and HVAC). Should the City accept this responsibility, staff recommends the ability to require a facility surcharge on any fees the museum charges for visiting/use of the facility, reserved for capital infrastructure.</td>
</tr>
<tr>
<td>LEASE PROVISION</td>
<td>SUMMARY</td>
</tr>
<tr>
<td>-----------------</td>
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</tr>
<tr>
<td>10. CITY ARCHIVES:</td>
<td>City will retain exclusive use of the Archives Room and will reimburse Museum for the proportionate share of operating and maintenance expenses applicable to the Archives Room.</td>
</tr>
<tr>
<td>11. CITY AND THIRD-PARTY USE OF COMMUNITY ROOM:</td>
<td>City, community groups and other third-parties will be allowed to reserve and use the Community Room in accordance with procedures and fees to be periodically agreed upon by the parties with such fees not to exceed fees for other similar facilities. The City and museum agree that use of the community room and other community assets within the facility (identified by the current 10/2020 architectural drawings) is not to interfere with the core operations of the museum to the general public. Parties agree that an exhibit to the lease outlining operating procedures for these shared spaces will be necessary.</td>
</tr>
<tr>
<td>12. TENANT SUBLEASE RIGHTS:</td>
<td>Museum retains the right to sublease portions of the Premises, subject to City’s prior approval. Subleases shall conform with the conditional use permit the museum has for this facility.</td>
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<tr>
<td>LEASE PROVISION</td>
<td>SUMMARY</td>
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<tr>
<td>-----------------</td>
<td>---------</td>
</tr>
<tr>
<td><strong>13. INITIAL TENANT IMPROVEMENTS:</strong></td>
<td>Museum will construct extensive repairs and renovations to the Premises preliminarily estimated to cost $10.5 million in accordance Building Permit # 16000-03285 issued on 2/26/2019 and the associated approved plans and specifications drawn by Garavaglia Architecture, Inc. and dated 12/21/2016.</td>
</tr>
<tr>
<td><strong>14. CITY CONTRIBUTIONS TO CONSTRUCTION COSTS:</strong></td>
<td>Drawing from various funds, City proposes to provide $9.2 million towards the costs of the initial tenant improvements, improvements, funding from the sale of TDRs ($3.9M) and City Funds ($5.3M).</td>
</tr>
<tr>
<td><strong>15. PERMIT AND PROCESSING FEES:</strong></td>
<td>Outstanding Item – Museum has paid City $100,000 planning fees associated with the approved building plans for the initial tenant improvements and further permitting and processing fees may arise. Museum seeks reimbursement from the City for its paid fees and waiver of any further permitting and processing fees.</td>
</tr>
<tr>
<td><strong>16. PREVAILING WAGES – TRACKING SOFTWARE:</strong></td>
<td>Museum will pay prevailing wages for the initial tenant improvements.</td>
</tr>
<tr>
<td><strong>17. PAYMENT AND PERFORMANCE BONDS:</strong></td>
<td>Outstanding Item - A payment bond is legally required for the project. Typically, a payment and performance bond are obtained collectively from a surety. City staff has requested that Museum obtain both a payment and performance bond. Museum has requested that the City pay the costs for the bonds which are estimated to be $67,000.</td>
</tr>
</tbody>
</table>
Index of Staff Reports Regarding the ROTH Building
300 Homer Ave.

Additional background information can be found by referring to prior staff reports on this topic.

**CMR 131:07 – 5/14/2007**  *report includes the full 2007 Lease Agreement*
Roth Building, 300 Homer Avenue – Reject $300,000 Contribution Condition - Approval of Option Agreement and Lease, and Consideration Of Addendum to the Environmental Impact Report (EIR) for the South of Forest Area Coordinated Plan

**CMR 243:10 – 6/7/2010**
Approval of Amendment No.1 to the Option Agreement Between the City of Palo Alto and the Palo Alto History Museum for the Roth Building, 300 Homer Avenue, Providing for a One-Year Extension of the Option Term

**CMR: 2197 – 10/18/2011**
Palo Alto Historic Museum’s Proposal to Use Federal Historic Tax Credit Program for Adaptive Reuse of Roth Building

**CMR: 2891 – 6/19/2012**
Palo Alto History Museum’s Business Plan for a Roth Building Lease

**CMR: 4703 – 6/9/2014**
Approval of a One–Year Extension of the Building Permit and the Option to Lease Agreement Between the City of Palo Alto and the Palo Alto History Museum for the Roth Building, 300 Homer Avenue

**CMR: 5365 – 12/15/2014**
Palo Alto Historical Museum's Request for Funding and Request for City to Sell Transfer of Development Rights for the Roth Building

**CMR: 5551 – 3/2/2015**
Adoption of a Resolution Designating 300 Homer Street Known as Roth Building as a "Sender Site" in the Transfer of Development Rights (TDR) Program and Direction to staff to Advertise Request for Proposal to Market the TDRs.

**CMR: 5879 – 6/29/2015**
Approval of a One–Year Extension of the Option to Lease Agreement Between the City of Palo Alto and the Palo Alto History Museum for the Roth Building Located at 300 Homer Avenue and Approval of a Budget Amendment Ordinance in the Capital Improvement Fund to Establish a Roth Building Historical Rehabilitation Reserve in the Amount of 3.88 Million Dollars
Index of Staff Reports Regarding the ROTH Building
300 Homer Ave.

CMR: 8612 12/11/2017
Status Update and Discussion of the Roth Building Rehabilitation, 300 Homer Avenue; Recommendation to Approve a One-Year Extension of the Option to Lease the Roth Building Between the City of Palo Alto and the Palo Alto History Museum

CMR: 9767 12/17/2018
Discussion and Direction on the Status and use of the Roth Building, Extension of Fundraising Period With the Palo Alto History Museum, and Adoption of a Resolution for County Grant Application to use the Roth Building Consistent With Park use for 20 Years

CMR: 10276 – 3/2/2020
Review of the Report on the Palo Alto History Museum's Fundraising Status for the Roth Building Rehabilitation Project (300 Homer Avenue), Discussion of Options for Roth Building use and Rehabilitation, and Direction for Next Steps; Approval of an Agreement With Sea Scouts/Environmental Volunteers to Provide $65,000 in Dedicated Funding for Uses Related to the Mission of the Environmental Volunteers

CMR: 11611 – 11/17/2020
Discussion With the Palo Alto History Museum and Recommended Direction to the City Council Regarding Options for the Rehabilitation and Future use of the Roth Building, Including: Funding, Construction Phasing, and Financial Support Requested by the Museum

CMR: 11832 – 12/14/2021
Finance Committee Recommends the City Council Direct Staff to Complete the Following in Regards to the ROTH Building, 300 Homer Ave: 1) Identify Funding for a "Cold Shell"; 2) Return to Council With Additional Funding and a Lease or Lease Option; and 3) Work With the Palo Alto Museum Regarding Lease Terms

Colleagues Memo; - 5/12/21
Transmittal of City Council Colleagues Memo Regarding Palo Alto Museum (PAM) at the Roth Building

Budget Wrap-Up Memo – 5/25/21
Fiscal Year 2022 Budget Wrap-Up Memorandum

CMR: 12350 – 6/7/2021
City Council Review of the Finance Committee's Recommended Fiscal Year (FY) 2022 Operating & Capital Budgets and Municipal Fee Schedule; Direction to Staff Regarding Preparation of the Final Budget for Council Adoption on June 21, 2021
Index of Staff Reports Regarding the ROTH Building
300 Homer Ave.

CMR: 12307 – 6/21/2021
PUBLIC HEARING: Adoption of Budget Ordinance for Fiscal Year 2022, Including Operating and Capital Budgets and Municipal Fee Schedule, and Adoption of a Revised Compensation Plan for Management and Professional Employees