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)  
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, and streamed to Midpen Media Center at 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.

**CALL TO ORDER**
STUDY SESSION

1. Report and Discussion on Valley Water’s Purified Water Project Including Location of the Advanced Water Purification Facility at the Former Los Altos Treatment Plant Site, Reverse Osmosis Concentrate Management, Upcoming Agreements and Decisions

AGENDA CHANGES, ADDITIONS AND DELETIONS

PUBLIC COMMENT (6:00 – 6:20 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 (6:20 – 6:30 PM)

Items will be voted on in one motion unless removed from the calendar by three Council Members.

2. Approve Minutes from the February 5, 2022 City Council Retreat, February 7, 2022 City Council Meeting, and the February 14, 2022 City Council Meeting

3. Adoption of a Resolution to Authorize the City Manager to Apply for an SB1383 Local Assistance Program Grant from the California Department of Resources Recycling and Recovery (CalRecycle) and Execute Related Program Agreements and Amendments


Q&A

5. Approval for the Renewal of the Agreement Between the City of Palo Alto and the Palo Alto Art Center Foundation for Mutual Cooperation and Support to Facilitate the Foundation’s Financial and Administrative Support of the City’s Palo Alto Art Center

Q&A

6. Approval of Amendment No. 2 to Professional Services Contract Number C20176858 With Sandis Civil Engineers to Increase the Not-to-Exceed Compensation by $50,000 (to $171,000) and to Extend the Term of the Contract to October 2026 for the Completion of Final Plans and Design Support for the Churchill Avenue Enhanced Bikeway Project

7. Staff and Utilities Advisory Commission Recommend the Council Adopt a Resolution Amending Utilities Rule and Regulation 11 (Billing, Adjustments and Payment of Bills) to Set a $5,000 Limit on Fee-Free Credit Card Payments and Apply a Cost-Recovery Charge for Credit Card Payments in Excess of $5,000
8. Approval of a Five-Year Contract C22181932 with Sierra Traffic Markings, Inc in the Amount of $850,000 to Provide On-Call Minor Roadway Improvements

9. Approval of Contract C22182466 With Ranger Pipelines, Inc. in the Amount of $7,819,336 for Water Main Replacement Project 28 (WS-14001) in the Barron Park, Oak Creek, Duveneck Francis, Charleston Meadows Neighborhoods and in the California Business District, and Authorization for the City Manager to Negotiate and Execute Related Change Orders Not-to-Exceed $781,934 for a Total Not-to-Exceed Amount of $8,601,270

10. Approval of Contract No. C22182372 with CSW/Stuber-Stroeh Engineering Group Inc. in the Amount of $164,852 for Design Services for the University Avenue Streetscape Update Capital Improvement Program Project, PE-21004 and Approval of Budget Amendments in the Capital Improvement Fund and the Stanford University Medical Center (SUMC) Fund

CITY MANAGER COMMENTS (6:30 – 6:50 PM)

BREAK (6:50 – 7:00 PM)

ACTION ITEMS

11. PUBLIC HEARING: Objections to Weed Abatement and Adoption of a Resolution Ordering Weed Nuisance Abated (7:00 – 7:15 PM)

12. Discussion and Direction on Draft Response to the Santa Clara County Civil Grand Jury Report Published December 16, 2021 Pertaining to Affordable Housing and Potential Direction to Staff on Related Policies (7:15 – 9:00 PM) Supplemental Memo Added

13. California Avenue and Ramona Street Temporary and Permanent Closure: Direct Staff to Issue RFP for a Feasibility Study and Return for Contract Approval, and Provide Direction to Staff on Activities and Programming (Continued from the February 7, 2022 meeting) (9:00 – 9:45 PM)

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

OTHER INFORMATION
Standing Committee Meetings

Finance Committee Meeting March 1, 2021

Public Letters to Council

Schedule of Meetings

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.

4. Appointment of 2022 Emergency Standby Council
   Late Packet Report Added

12. Discussion and Direction on Draft Response to the Santa Clara County Civil Grand Jury Report Published December 16, 2021 Pertaining to Affordable Housing and Potential Direction to Staff on Related Policies
   Supplemental Memo Added
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
Title: Report and Discussion on Valley Water’s Purified Water Project Including Location of the Advanced Water Purification Facility at the Former Los Altos Treatment Plant Site, Reverse Osmosis Concentrate Management, Upcoming Agreements and Decisions

From: City Manager

Lead Department: Public Works

Recommendation
This is a study session, and no action is required from Council at this time.

Background
The purpose of this study session is to provide the Council with a status update on the City’s efforts with Valley Water and the City of Mountain View to improve the quality of recycled water produced by the City and increase water reuse at the regional level.

Local Salt Removal Facility: Improving Existing Recycled Water Quality at the RWQCP
The Regional Water Quality Control Plant (RWQCP) treats wastewater from six communities, including Palo Alto. Currently, much of the treated effluent is discharged into the Bay rather than being reused. The RWQCP produces and distributes approximately 230 million gallons per year of tertiary-treated recycled water to the City of Mountain View, several City-owned parks and facilities, and a commercial truck fill standpipe at the RWQCP. Following public concerns regarding the irrigation of redwood trees and other salt-sensitive species with recycled water, the City prepared an Environmental Impact Report (EIR) focused on water quality issues and salinity impacts. On January 25, 2010, Council approved the Recycled Water Salinity Reduction Policy (Staff Report ID #111:10, Resolution 9035), including a goal of reducing the recycled water total dissolved solids level to 600 parts per million. In 2017, Valley Water, Palo Alto, and Mountain View finalized a feasibility study and the preliminary design report for a local salt removal project (Staff Report ID #10627).

Highly treated water produced by the local salt removal facility would benefit landscapes currently irrigated with recycled water in Palo Alto, enable Palo Alto to expand its non-potable distribution system, and/or provide a first step toward small-scale potable water production for direct or indirect potable reuse in Palo Alto. The local salt removal project was estimated in 2017 to cost approximately $20,000,000. Under the terms of the Agreement, Valley Water will
contribute $16,000,000 (Staff Report ID #10627) toward the design and construction of the facility with the balance split between Palo Alto and Mountain View at 25% and 75%, respectively.

**Partnership Agreement to Advance Resilient Water Reuse Programs in Santa Clara County**

In order to increase the quality of recycled water in Palo Alto and increase water reuse in Santa Clara County, a Partnership Agreement to Advance Resilient Water Reuse Programs in Santa Clara County between Valley Water and the Cities of Palo Alto and Mountain View (Agreement) was executed at the end of 2019 (Staff Report ID # 10627). The Agreement includes three major components: Partial funding by Valley Water ($16 million) for a local salt removal facility at RWQCP; a Valley Water option to use about half of the effluent from the RWQCP to be treated at a regional purification facility and used elsewhere in the county; and a water supply option for the cities of Palo Alto and Mountain View to request additional water supply if needed. Palo Alto agreed to assist with siting a regional purification facility in the city and to make best efforts to accommodate reverse osmosis concentrate (ROC) discharge to the wastewater treatment plant’s outfall. Per the terms of the Agreement, Valley Water has been making annual payments of $200,000 since 2020 for the effluent transfer option. Valley Water will provide an annual payment of $1,000,000 for the effluent. Another collaborative effort between Valley Water and Palo Alto was the Northwest County Recycled Water Strategic Plan (Strategic Plan), completed in 2019 and presented to Council on March 2, 2020 (Staff Report ID # 10913). The Strategic Plan included a preliminary design and business plan for a recycled water distribution system expansion to customers in the Stanford Research Park. Variations of the project, contemplating recycled water service to parts of Los Altos, Los Altos Hills, Mountain View, and East Palo Alto, were also evaluated and compared to potable reuse alternatives.

**Proposed Regional Purified Water Project at the Former Los Altos Treatment Plant Site**

The Purified Water Project is part of Valley Water's water resources strategy to provide a reliable water supply from a diversity of sources consistent with its Water Supply Master Plan 2040. Valley Water’s objectives are to:

- Implement an indirect potable reuse supply project that provides 10 million gallons per day (MGD) production capacity (11,200 AFY, or acre-feet per year) of sustainable water supply for long-term and future demands.
- Design-construct-operate the project so that it reduces or minimizes environmental impacts.
- Deliver the project in a manner that is cost-effective and provides value to the ratepayers.

The Purified Water Project would include the construction of a new advanced regional water purification facility, pump station, and conveyance pipelines. Conveyance will be needed to move effluent from the RWQCP to the purification facility and from the facility to Valley Water’s existing Los Gatos Recharge System complex located in the City of Campbell. The Valley
Water Board of Directors directed Valley Water staff in December 2021 to finalize agreements with Palo Alto to locate the facility at the former Los Altos Treatment Plant (LATP) site in Palo Alto.

Valley Water plans to implement the Purified Water Project via a Public-Private Partnership (P3) to harness private sector innovation. The benefits to Palo Alto include payments for treated wastewater and a land lease, as well as increased use of treated wastewater to further regional sustainability and climate adaptation goals.

Discussion
The Project includes several components and will require extensive coordination between the participating agencies. The following table outlines the components and the responsibilities of Valley Water and Palo Alto, respectively.

<table>
<thead>
<tr>
<th>Project Component</th>
<th>Valley Water Role</th>
<th>Palo Alto Role</th>
<th>Mountain View Role</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Local Salt Removal Facility</strong></td>
<td>-Funding</td>
<td>-Design, construction, operation, and maintenance; Distribute enhanced recycled water</td>
<td>-Funding -offtake treated water</td>
</tr>
<tr>
<td><strong>Regional Water Purification Facility</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Regional Water Purification Facility</td>
<td>-Funding, design, construction, operation, and maintenance of project</td>
<td>-Provide effluent -Receive and discharge ROC</td>
<td>NA</td>
</tr>
<tr>
<td>• Site Location</td>
<td>-Environmental review and mitigation including clean-up; wetland mitigation -Design -Lessee for LATP site</td>
<td>-Property Owner -Negotiate lease agreement with Valley Water</td>
<td>NA</td>
</tr>
<tr>
<td>• Pump Station</td>
<td>Design, construction, operation and maintenance</td>
<td>-Designate location -Negotiate lease and operations and maintenance agreement with Valley Water</td>
<td>NA</td>
</tr>
<tr>
<td>• Conveyance system</td>
<td>Funding, design, and construction</td>
<td>Review and approval</td>
<td>Review and approval</td>
</tr>
<tr>
<td>• Reverse</td>
<td>-Co-negotiate with</td>
<td>-Co-negotiate with</td>
<td>NA</td>
</tr>
</tbody>
</table>
### Project Component

<table>
<thead>
<tr>
<th>Project Component</th>
<th>Valley Water Role</th>
<th>Palo Alto Role</th>
<th>Mountain View Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Osmosis Concentrate (ROC)</td>
<td>regulators to discharge at Palo Alto outfall location - Assume liability associated with discharge of ROC</td>
<td>regulators to discharge at Palo Alto outfall location - Determine where ROC will enter effluent</td>
<td></td>
</tr>
<tr>
<td>Regulatory approvals</td>
<td>Lead agency on permits for the Regional Purification Facility</td>
<td>Support Valley Water efforts on receiving regulatory approval specifically from the Regional Water Quality Control Board</td>
<td>NA</td>
</tr>
</tbody>
</table>

### Local Salt Removal Facility at the RWQCP

In 2021, the City of Palo Alto hired Black & Veatch to design the local salt removal facility ([Staff Report ID # 11782](#)). Recently, staff received a cost estimate for the 30% design that is significantly higher than the original estimate developed in 2017. A comparison of the two estimates is shown in the table below:

#### Table 1: SRF Application and 30% Design Cost Estimates

<table>
<thead>
<tr>
<th>Estimate</th>
<th>SRF Application (2017) (10% Project Definition)</th>
<th>B&amp;V Design Submittal (2021) (30% Project Definition)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facility</td>
<td>1.125 MGD AWPS</td>
<td>1.125 MGD AWPS</td>
</tr>
<tr>
<td>Indexed Dollar Value</td>
<td>2020</td>
<td>2023</td>
</tr>
<tr>
<td>Construction Costs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Direct and Contractor Costs</td>
<td>$13,904,000</td>
<td>$26,938,000</td>
</tr>
<tr>
<td>Design Contingency and Market Volatility</td>
<td>$4,900,800</td>
<td>$9,052,000</td>
</tr>
<tr>
<td>Escalation</td>
<td>$698,200</td>
<td>$3,492,000</td>
</tr>
<tr>
<td><strong>Estimated Bid Price</strong></td>
<td>$19,503,000</td>
<td>$39,481,000</td>
</tr>
<tr>
<td>Other Project Costs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Owner Controlled Change Order Contingency, Engineering Services, Construction Management, and Program Management</td>
<td>$2,850,000</td>
<td>$11,908,000</td>
</tr>
<tr>
<td><strong>Total Project Costs</strong></td>
<td><strong>$22,353,000</strong></td>
<td><strong>$51,390,000</strong></td>
</tr>
<tr>
<td>AACE Estimate Class (Anticipated Bid Price Accuracy)</td>
<td>Class 3 (-20% to +30%)</td>
<td>Class 4 (-30% to 50%)</td>
</tr>
</tbody>
</table>
The updated cost estimate from Black & Veatch reflects the volatility in construction prices. Direct and construction costs include a 28% rise in material costs between April 2020 and August 2021. The 30% cost estimate includes some cost mark-ups that staff believes may result in an overstated total project cost, but it is clear that the cost will increase dramatically in comparison to the 10% project definition estimate. In May 2022, Black & Veatch will provide an updated cost estimate with the 60% design. Staff and the program management consultant will work closely with Black & Veatch to ensure fuller agreement on the resulting updated cost estimate. Because this project received some funding by Valley Water ($16 million), the remainder of the project will be funded three quarters by Mountain View (approximately $26 million) and one quarter by Palo Alto (approximately $8 million) if the project moves forward. Mountain View and Valley Water staff are part of the review process during the design of this project. The 90% design and cost estimate is expected by the end of September 2022, and the cost estimate will be evaluated prior to moving forward with construction. Staff will return to Council to discuss next steps and potential options before proceeding.

Site Location and Lease of the Regional Water Purification Facility
The proposed site for the regional water purification facility in Palo Alto is the former LATP Area B site located at the end of San Antonio Road in Palo Alto. The environmental work has included the delineation of existing wetlands. The geotechnical work included a field exploration to determine soil conditions at the site. Valley Water and Palo Alto are negotiating a land lease of the 6.4-acre portion of the larger 13.2-acre LATP for construction of the facility and siting of a pump station at the RWQCP. The lease agreement and operations and maintenance agreements will be presented to Council for consideration at a future date; a Comprehensive Plan amendment for a portion of Area B site and a parcel subdivision will also be needed. The project will be subject to discretionary review by the Architectural Review Board.

Reverse Osmosis Concentrate Management
Reverse Osmosis is a process that removes minerals, viruses, and other constituents; the same technology is used to convert seawater into fresh drinking water. The average efficiency of Reverse Osmosis is 85 percent. That means, for every 100 gallons of treated wastewater feedwater, the purification facility will produce 85 gallons of purified water and 15 gallons of Reverse Osmosis Concentrate (ROC). ROC contains all the dissolved constituents that were in the feedwater already with no chemicals or other constituents added.

The ROC produced at Valley Water’s existing Silicon Valley Advanced Water Purification Center in San Jose is blended with the wastewater effluent at the San Jose-Santa Clara Regional Wastewater Facility (RWF) and discharged to the Bay under their existing wastewater permit. This approach has been used without any negative environmental impact since 2014. Valley Water is working closely with the Palo Alto RWQCP staff and the regulators on an approach for discharging the ROC from the regional water purification facility in Palo Alto in a similar fashion.
The San Francisco Bay Regional Water Quality Control Board (Regional Board), which issues the RWQCP’s discharge permit, has been very supportive of the proposed Water Purification Project and this blending approach. The Regional Board has concurred with a suite of technical studies that will be conducted by Valley Water to inform the renewal of the RWQCP’s permit required to support the ROC discharge. The Regional Board will require further studies and may require pretreatment of ROC through horizontal levees. Palo Alto will ensure risk associated with the discharge of ROC will be borne by Valley Water in the final ROC management agreement.

Future Homekey Project
As part of the planning process for the Project, the City recognizes a need to coordinate the construction and operation of any new facilities with the emergency shelter project that is also planned for development on another part of the LATP site (part of Area C).

City Council adopted a resolution authorizing the City Manager to apply for California Project Homekey funds in conjunction with LifeMoves for an 88-unit emergency shelter project at a portion of the LATP Area C site (1237 North San Antonio Road) (Staff Report ID #13595 and Staff Report ID #13702).

Staff is working with LifeMoves and Valley Water to ensure that both projects are compatible on the site. Project Homekey will be located on part of Area C of the LATP site whereas the purification project will be located on Area B (Figure 1 and 2). Staff is working to find a suitable construction staging area outside of the LATP site, or Valley Water will stage within Area B for the purification project. The staging area issue will require further discussion during the project’s design stage.

Staff believes these two projects are compatible since, unlike the RWQCP, the purification plant does not emit any odors and is relatively quiet; the primary concern is impacts caused during construction of the purification facility. The Homekey project will be adjacent to the Greenwaste operation yard which is another commercial (sorting) facility.
Figure 1. Current use of the old Los Altos Treatment Plant site; Greenwaste and Project Homekey will share Area C; Area B is anticipated for the future Valley Water Regional Purification Facility.
Figure 2. Potential future layout of Area C with Project Homekey and Greenwaste Yard.

**Timeline**

Valley Water’s procurement process is ongoing. A Request for Qualification (RFQ) was released, and eight statements of qualifications were submitted. A Request for Proposals (RFP) and the draft EIR will be released in early 2022. Valley Water’s preferred tentative timeline is as follows:

- **Early 2022**: Decisions by City Council on the LATP site for the regional AWPF and Reverse Osmosis Concentrate management
- **Mid 2022**: Initiate Comprehensive Plan amendment and parcel subdivision (City)
- **Mid 2022**: Final EIR (Valley Water) and approval of lease agreement (City)
- **Late 2022**: Selection and contract award (Valley Water)
- **2022 – 2024**: Design by selected entity with Valley Water oversight and Palo Alto site and design review
- **2024-2028**: Construction and beginning of operations

**Resource Impact**

City of Palo Alto staff resources are required in support of the Purified Water Project. The project requires review from the City for the siting of the facility at the Former Los Altos Treatment Plant site; installing a new pump station at the Regional Water Quality Control Plant;
installation of underground pipes to convey the effluent and reverse osmosis concentrate back and forth to the RWQCP; and the negotiation with the Regulatory Agency to ensure that Palo Alto can comply with future permit requirements. Staff is working with Valley Water on a Reimbursement Agreement with Valley Water to assist staff to comply with the added workload associated with this project.

Once Valley Water executes the portion of the Partnership Agreement to start treating effluent from the RWQCP; RWQCP will receive approximately $1,000,000 per year that will be divided by flow share amongst the cities that have committed their effluent, which are currently, Palo Alto, Mountain View, and Los Altos.

Stakeholder Engagement
Palo Alto and Valley Water staff meet regularly to collaborate on outreach for the project. Valley Water staff conducted virtual tours of the Silicon Valley Advanced Water Purification Center for stakeholder groups including the Oshman Family Jewish Community Center, the Palo Alto Fellowship Forum, and a public tour in partnership with the Palo Alto Library. Valley Water staff also held informational meetings with environmental stakeholders in Mountain View and Palo Alto, and faith-based organizations such as Spark Church, First Congregational Church, and Etz Chayim. In addition, Valley Water presented a Purified Water Project update at the September 2021 Parks and Recreation Committee meeting and hosted a private tour for Palo Alto’s Public Works staff. Palo Alto is working with LifeMoves on applying for Project HomeKey funding to locate an emergency homeless shelter project on a portion of the LATP Area C site. Palo Alto, Valley Water, and LifeMoves staff are collaborating to ensure compatibility of these neighboring projects.

In addition, Palo Alto and Valley Water have coordinated on engaging stakeholders on the environmental review process for the proposed Water Purification Project. Valley Water, acting as the “lead agency”, has determined that an EIR is required to satisfy the requirements of the California Environmental Quality Act (CEQA). The draft EIR will evaluate the proposed project’s environmental conditions, range of alternatives, potential environmental impacts associated with the proposed project implementation, and provide mitigation measures. The Notice of Preparation (NOP) was released on March 19, 2021 and the public scoping meeting was held on March 29, 2021. Outreach was conducted to encourage attendance at the scoping meeting via an outreach mailer, announcements at tours of the Silicon Valley Advanced Purification Center, and continued engagements with staff from the cities of San Jose and Palo Alto to reach key stakeholder groups. Prior to the release of the NOP, Valley Water staff and consultants met with the planning department staff of both Palo Alto and San Jose as these cities will be the responsible agencies under CEQA. Currently, both City’s sites are being actively studied by Valley Water. The Valley Water Board directed staff to focus on Palo Alto at this time. In the future, Valley Water anticipates that an additional purification plant will be required to augment future drinking water supplies within Santa Clara County. Additional coordination will occur prior to release of the EIR. The next steps after the initial study which is the NOP will be a
full environmental impact report, which will focus on the old Los Altos Treatment Plant Site; Palo Alto will be the responsible agency.

Environmental Review
This study session is presented for information and discussion purposes only and is therefore not a project as defined by section 15378 of the CEQA Guidelines.

Valley Water, acting as lead agency for the proposed Water Purification Project, has determined that an EIR is required to satisfy the requirements of the CEQA. Palo Alto will be a responsible party throughout the CEQA process. Valley Water is currently in the process of preparing the Draft EIR; which the City will review prior to release.
Meeting Date: 2/28/2022

Title: Approve Minutes from the February 5, 2022 City Council Retreat, February 7, 2022 City Council Meeting, and the February 14, 2022 City Council Meeting

From: Lesley Milton, City Clerk

Staff recommends Council to review and approve the minutes as presented.

ATTACHMENTS:

- Attachment2.a: Attachment A: 20220205amCCs (DOCX)
- Attachment2.b: Attachment B: 20220207amCCs (DOCX)
- Attachment2.c: Attachment C: 20220214amCCs (DOCX)
CITY COUNCIL RETREAT
DRAFT ACTION MINUTES

Special Meeting
February 5, 2022

The City Council of the City of Palo Alto met on this date in virtual teleconference at 9:00 A.M.

Participating Remotely: Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

Absent:

1. Roll Call and Welcome from Mayor

NO ACTION TAKEN

2. Council Retreat Discussion

City Council went on break at 11:22 A.M. and returned at 11:31 A.M.

MOTION: Council Member Cormack moved, seconded by Council Member Stone to select the following as the 2022 Council Priorities:

A. Economic Recovery and Transition;
   i. Cohesive vision for our commercial cores;

B. Climate Change – Protection and Adaptation;

C. Housing for Social and Economic Balance; and

D. Community Health and Safety:
   i. Crime, mental health, air quality, noise, sense of belonging.

MOTION PASSED: 7-0

The Council went on a lunch break at 12:30 P.M. and returned at 12:50 P.M.

MOTION: Mayor Burt moved, seconded by Vice Mayor Kou to refer to the Policy and Services Committee on:

A. Recommending to the Council a set of values that would continue over successive years as values of the city and the community;

B. Considering the following topics, but not limited to:
DRAFT ACTION MINUTES

i. Fiscal Sustainability;

ii. Social Justice;

iii. Healthy City Healthy Community; and

iv. Environmental Sustainability.

MOTION PASSED: 6-1, Tanaka no

Adjournment: The meeting was adjourned at 2:02 P.M.

ATTEST:                              APPROVED:

_________________________           ________________________
City Clerk                                              Mayor

NOTE: Action minutes are prepared in accordance with Palo Alto Municipal Code (PAMC) 2.04.160(a) and (b). Summary minutes (sense) are prepared in accordance with PAMC Section 2.04.160(c). Beginning in January 2018, in accordance with Ordinance No. 5423, the City Council found action minutes and the video/audio recordings of Council proceedings to be the official records of both Council and committee proceedings. These recordings are available on the City’s website.
CITY COUNCIL
DRAFT ACTION MINUTES

Special Meeting
February 7, 2022

The City Council of the City of Palo Alto met on this date in virtual teleconference at 5:00 P.M.

Participating Remotely: Burt, Cormack, Filseth, Kou, Stone, Tanaka

Absent: DuBois

Closed Session

1. CONFERENCE WITH CITY ATTORNEY Subject: Written Claim Against the City of Palo Alto By Strawn Construction Inc. regarding work performed on Palo Alto Fire Station No. 3 Authority: Government Code Section 54956.9 (e)(3).


MOTION: Council Member Cormack moved, seconded by Vice Mayor Kou to go into Closed Session.

MOTION PASSED: 6-0, DuBois Absent

Council went into Closed Session at 5:06 P.M.

Council returned from Closed Session at 7:30 P.M.

Mayor Burt announced there was no reportable action.
Agenda Changes, Additions and Deletions

None

Consent Calendar

Vice Mayor Kou registered a no vote on Agenda Item Number 9.

Council Member Tanaka registered a no vote on Agenda Item Number 4.

3. Approve Minutes from the January 24, 2022 City Council Meeting.

4. Authorize and Approve a Three Million Dollars ($3,000,000) Loan From the Housing In Lieu and Impact Fee Funds for the Development of an Affordable Workforce Housing Project Located at 231 Grant Avenue; Approve the Budget Amendment in the Residential Housing In-Lieu Fund; Authorize the City Manager to Execute Associated Agreements.

5. Policy and Services Committee Recommends Approval of the Office of the City Auditor Construction Project Controls Report.

6. Policy and Services Committee Recommends Approval of the Office of the City Auditor's Initial Public Safety Building Monitoring Report.

7. Policy and Services Committee Recommends Approval of the Office of the City Auditor's Task Order to Perform a Wire Payment Process and Controls Review.


9. Policy and Services Committee Recommendation that City Council Approve the 2022 Legislative Guidelines; Utilities Advisory Commission Recommendation that City Council Approve the 2022 Utilities Legislative Guidelines.

MOTION: Council Member Filseth moved, seconded by Council Member Cormack to approve the Consent Agenda items 3-9.

ITEM 4 OF MOTION PASSED: 5-1, Tanaka no, DuBois absent

ITEM 9 OF MOTION PASSED: 5-1, Kou no, DuBois absent

ITEMS 3, 5-8 OF MOTION PASSED: 6-0, DuBois absent
DRAFT ACTION MINUTES

Action Items

10. Discuss the FY 2022 Mid-Year Budget Review and Approve the Following: 1) FY 2022 Budget Amendments in Various Funds, and 2) Amendments to the FY 2022 Table of Organization to Add 11.00 FTE Positions.

MOTION: Council Member Filseth moved, seconded by Council Member Cormack to:

A. Approve a Budget Amendment Ordinance for Fiscal Year (FY) 2022 in various funds, as identified in Attachment A;
   i. Amendment: Amend the contribution to the Supplemental Pension 115 Trust in the General Fund from $2 Million to $1 Million and adjust the transfer from the General Fund to the General Benefit Fund to align. Adjust the use of the General Fund BSR from $3.6 Million to $2.6 Million;

B. Approve amendments to the FY 2022 Table of Organization in Attachment B consistent with the budget amendments in Attachment A;

C. Review and accept this preliminary financial status report for the second quarter of FY 2022; and

D. Authorize City Manager to hire up to 5 FTEs in the Police Department.

PART A OF MOTION PASSED: 5-1, Tanaka no, DuBois absent

PARTS B-D OF MOTION PASSED: 6-0, DuBois absent

11. California Avenue and Ramona Street Temporary and Permanent Closure: Direct Staff to Issue RFP for a Feasibility Study and Return for Contract Approval, and Provide Direction to Staff on Activities and Programming

Public Comment was accepted, and the item was continued to the February 28, 2022 meeting.

Adjournment: The meeting was adjourned at 11:20 P.M.
The City Council of the City of Palo Alto met on this date in the Council Chambers and by virtual teleconference at 5:00 P.M.

Present: Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

Absent: None

Special Orders of the Day

1. Select Applicants to Interview for the Architectural Review Board.

**MOTION:** Council Member Cormack moved, seconded by Vice Mayor Kou to interview all new applicants for the Architectural Review Board.

**MOTION PASSED:** 7-0

AA1. Friends of the Palo Alto Libraries.

**NO ACTION TAKEN**

**Agenda Changes, Additions and Deletions**

None

**Consent Calendar**

Vice Mayor Kou moved, seconded by Council Member Stone, third by Mayor Burt to pull Item 5 from the Consent Calendar to be heard as Item 8A tonight.

Council Member Tanaka registered a no vote on Agenda Item Numbers 6, 7.

**MOTION:** Council Member DuBois moved, seconded by Council Member Cormack to approve the Consent Agenda items 2-4, 6-7.

2. Approve Minutes from the January 31, 2022 City Council Meeting.

3. Approval of Construction Contract Number C22181645 with Legion Contractors Inc., in the Amount of $494,723, and Authorization for the City Manager or their Designee to Negotiate and Execute Change Orders up to a Not-to-Exceed Amount of $74,208, for the Magical Bridge...
Playground Rubber and Synthetic Turf Resurfacing Capital Improvement Program Project (PE-21003).

4. Approval of Amendment Number 2 to the Agreement With Palo Alto Unified School District (PAUSD) for PAUSD Athletic Field Brokering and Maintenance Cost-sharing to Extend the Term to June 30, 2022 with an Optional Extension for an Additional Two Years.

5. Approval of Amendment #4 to Contract C18171057 with AECOM to Increase the Not-to-Exceed Compensation by $722,170 for Additional Evaluation and Outreach of Railroad Grade Separation Alternatives for a Total Not-to-Exceed of $3,596,828. This Item was pulled and heard as Item 8A.

6. Approval of Meter Data Management System (MDMS) Contract C22184319 With N. Harris Corporation (SmartWorks) in the Amount Not to Exceed $1,804,055 Over a Five-Year Term.


ITEMS 2 AS AMENDED, 3, 4, OF MOTION PASSED: 7-0

ITEM 6 OF MOTION PASSED: 6-1, Tanaka No

ITEM 7 OF MOTION PASSED: 5-1-1, Tanaka No, Stone Recused

Item 5 was pulled from the Consent Calendar to be heard as Item 8A.

8A. Approval of Amendment #4 to Contract C18171057 with AECOM to Increase the Not-to-Exceed Compensation by $722,170 for Additional Evaluation and Outreach of Railroad Grade Separation Alternatives for a Total Not-to-Exceed of $3,596,828.

MOTION: Vice Mayor Kou moved, seconded by Mayor Burt to refer this item to the Rail Committee.

PASSED: 4-3, Cormack, DuBois, Filseth no
Action Items

8. Discuss and Provide Direction to Staff on: (1) Continuing the Cubberley Concept Plan; (2) the Temporary Relocation of Palo Verde and Hoover Elementary Schools to Cubberley; and (3) Potential Opportunity to Acquire Additional Land at Cubberley.

**MOTION:** Council Member DuBois moved, seconded by Council Member Cormack to:

A. Direct Staff to pause preparation of the Cubberley Concept Plan CEQA;
B. Request a joint meeting with the PAUSD School Board and City Council prior to the June break;
C. Ask Staff return to Council with a work plan to include:
   i. Exploring a land swap at Fletcher or financial framework for acquiring available land; and
   ii. Scope the design process for Cubberley Community Center that is City owned once the acreage is determined.

**MOTION PASSED:** 7-0

9. Provide Direction to Staff on Negotiations with Pets in Need for Operations and Capital Improvements at the City's Animal Shelter.

**MOTION:** Mayor Burt moved, seconded by Council Member Filseth to direct Staff to:

A. That as a condition for continuing good faith negotiations, that Pets in Need would agree to extend the notice of termination six months beyond the current date;
B. Proceed with negotiations with Pets in Need for a long-term contract agreement for animal services in Palo Alto;
C. Evaluate the necessary kennel size for community partners that we serve;
D. Include some form of trap and neuter program;
E. Include a small animal area in the renovation plans;
DRAFT ACTION MINUTES

F. Assure that the contract agrees upon hours of operation and services provided;

G. That the parties agree to pursue a fundraising program to supplement existing capital commitments for the shelter; and

H. Explore the transition to a new database.

MOTION PASSED: 7-0

Adjournment: The meeting was adjourned at 9:35 P.M.
City of Palo Alto
City Council Staff Report

Meeting Date: 2/28/2022

Title: Adoption of a Resolution to Authorize the City Manager to Apply for an SB1383 Local Assistance Program Grant from the California Department of Resources Recycling and Recovery (CalRecycle) and Execute Related Program Agreements and Amendments

From: City Manager

Lead Department: Public Works

Recommendation
Staff recommends that Council adopt the attached resolution (Attachment A) authorizing the City Manager or their designee to apply for an SB 1383 Local Assistance Program Grant from the California Department of Resources Recycling and Recovery (CalRecycle) and to sign related program agreements and amendments.

Background
CalRecycle offers a non-competitive Local Assistance Program grant to offset jurisdictions’ program costs associated with implementation of Senate Bill (SB) 1383 Short Lived Climate Pollutant regulations, which impact the management of organic wastes throughout the State. The approved resolution is due on March 1, 2022 and it is necessary to receive the funding from CalRecycle. A full description of the City’s obligations under SB 1383 including the recovered organic waste product options being considered for procurement is detailed in Staff Report ID # 13547 that was approved by Council on November 1, 2021.

Discussion
The City is qualified to receive up to $89,759 in funding assistance through CalRecycle’s non-competitive SB 1383 Local Assistance grant program. The amount of the grant is based on population and is available to all jurisdictions in the State. The grant will provide funding assistance to the City in its purchase of recovered organic waste products mandated by the SB 1383 procurement requirements, which require municipalities across the state, starting this calendar year to procure a certain amount of “recovered organic waste products” such as compost, mulch, renewable natural gas, or power from anaerobic digesters or biomass conversion.

Timeline
Staff submitted the SB 1383 grant application in February 2022. For the application to be
deemed complete, a resolution must be attached by March 1, 2022. CalRecycle will send award notifications in April 2022 and the grant term will end April 2, 2024.

Resource Impact
The grant requires City expenditures of funds, which will be reimbursed by the State. If the grant is awarded, staff will return to Council to recognize the funds and incorporate them into the Refuse Fund budget. In addition, the grant amount will supplement a portion of the cost of procuring the recovered organic waste product in order to fulfill the SB 1383 procurement requirement. Additional funding will be requested through the Fiscal Year 2023 budget development process for the remaining estimated procurement cost.

Policy Implications
This grant program is consistent with the City’s 2018 Zero Waste Plan and Sustainability and Climate Action Plan and does not represent any changes to existing City policies.

Stakeholder Engagement
The requirements for complying with SB 1383 are mandated by the State of California and have been incorporated into the City’s policies. Outreach and education to inform the residential and business community about the SB 1383 requirements has been conducted and will continue with continuous future outreach to the community. A webpage with information on the SB 1383 requirements is on the City’s website at www.cityofpaloalto.org/sb1383regulations. Additionally, the application for grant funding in support of State mandates does not require increased stakeholder engagement.

Environmental Review

The CalRecycle grant application and procurement of recovered organic waste products are exempt from environmental review pursuant to CEQA Guideline Section 15061(b)(3), because it can be seen with certainty that the provisions contained therein do not have the potential for causing a significant effect on the environment, and also under CEQA Guidelines Sections 15307 and 15308, as actions taken by regulatory agencies to assure the maintenance, restoration, or enhancement of natural resources and the environment.

Attachments:
- Attachment3.a: Attachment A: Palo Alto SB 1383 Grant Resolution
Resolution of The City of Palo Alto
Authorizing Submittal of An Application for The CalRecycle SB 1383 Local Assistance Program Grant

RECITALS

WHEREAS, Public Resources Code sections 48000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (grants) in furtherance of the State of California’s (state) efforts to reduce, recycle and reuse solid waste generated in the state thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the application, awarding, and management of the grants; and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant’s governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants.

NOW, THEREFORE, the Council of the City of Palo Alto does hereby RESOLVE, as follows:

Section 1. The City Manager, or his/her designee, is authorized to submit an application to CalRecycle for the SB 1383 Local Assistance Program Grant.

Section 2. The City Manager, or his/her designee is hereby authorized and empowered to execute in the name of the City of Palo Alto all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project.

Section 3. These authorizations are effective for five (5) years from the date of adoption of this resolution.
Section 4. The Council finds that the adoption of the CalRecycle grant application and procurement of recovered organic waste products are exempt from environmental review pursuant to CEQA Guideline Section 15061(b)(3), because it can be seen with certainty that the provisions contained therein do not have the potential for causing a significant effect on the environment, and also under CEQA Guidelines Sections 15307 and 15308, as actions taken by regulatory agencies to assure the maintenance, restoration, or enhancement of natural resources and the environment.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST: 

________________________

City Clerk

________________________

Assistant City Attorney

APPROVED:

________________________

Mayor

________________________

City Manager

________________________

Director of Public Works

________________________

Director of Administrative Services
Meeting Date: 2/28/2022

Title: Appointment of 2022 Emergency Standby Council

From: Lesley Milton, City Clerk

This report will be a special late packet release on Thursday, February 24th, 2022.
Title: Approval for the Renewal of the Agreement Between the City of Palo Alto and the Palo Alto Art Center Foundation for Mutual Cooperation and Support to Facilitate the Foundation's Financial and Administrative Support of the City's Palo Alto Art Center

From: City Manager

Lead Department: Community Services

Recommendation
Staff recommends that City Council approve the renewal of a Mutual Cooperation and Support Memorandum of Understanding (MOU) with the Palo Alto Art Center Foundation (Attachment A) that extends the previous agreement for five years for a term beginning December 1, 2021 and ending September 30, 2026.

Background
The Palo Alto Art Center Foundation (Foundation) has played an integral role in the support and operation of the Palo Alto Art Center (PAAC) since its inception in 1973. (Note that from 1973 to 2000 the organization was identified as the Palo Alto Cultural Center Guild). The mission of the Foundation, a 501(c)(3) nonprofit organization, is to expand the reach and impact of the Palo Alto Art Center through fundraising and advocacy.

This MOU represents a five-year renewal of the previous mutual cooperation and support agreement between the City of Palo Alto and the Palo Alto Art Center Foundation approved by Council in 2016. The initial agreement was approved by Council in 2010 (CMR: 350:10). In addition, previous agreements between the City of Palo Alto and the Palo Alto Art Center Foundation were created to facilitate improvements of the Center facility (CMR 288:07, 107:08, 465:08, 168:09). The $9.1M renovation of the Palo Alto Art Center building (the former City Hall building) represented one of the largest public/private partnerships in the City’s history and relied upon $4.7M in contributions from the Palo Alto Art Center Foundation and community members. Similar public/private partnership agreements have been developed for the Friends of the Junior Museum & Zoo, Friends of the Children’s Theatre, and Palo Alto Recreation Foundation and Friends of the Palo Alto Parks.
Discussion
This MOU is identical to the previous agreement developed in 2016 with two notable exceptions. To enhance their efforts as a support organization, in 2010 City staff and the Foundation proposed a concept in which the partnership between the City and the Foundation would be strengthened through a written agreement that outlines overall responsibilities, procedures, and processes for decision making, use of funds, property, and facilities and staff management. The previous agreements approved by Council clarified the roles and responsibilities of both parties. In the new agreement, two additions have been made. The first is that the agreement memorializes the annual payment the Palo Alto Art Center Foundation makes to the City of Palo Alto to support staffing positions at the Art Center in the areas of children’s education in the amount of $81,000 annually ($20,000 to support the Director of Education position; $9,000 to support the Project Look Coordinator position; $9,000 to support the Children’s Fine Art Coordinator position; $43,000 to support the School and Teacher Programs Director position). These generous payments have been consistently made by the Foundation every year over the past several years. In addition, this new agreement provides opportunities for the sharing of customer information between the City of Palo Alto and the Foundation to promote fundraising, for customers who provide authorization.

This agreement and the valued partnership with the Foundation has helped the City to leverage resources and work in collaboration with the community through its relationship with the Foundation. This renewal agreement will continue the important policies and processes outlined in the previous foundational agreements.

Timeline
The previous MOU expired in February of 2021. This agreement will also have a five-year term and will expire on October 1, 2026.

Resource Impact
Appropriation for this agreement was included in the FY 2022 Adopted Budget. The Palo Alto Art Center Foundation makes an annual cash contribution to the City in the amount of $81,000 to support staffing positions in the areas of children’s education at the Palo Alto Art Center. This agreement memorializes this contribution. In addition, the Palo Alto Art Center Foundation supports Art Center programs through direct expenses of more than $200,000 annually.

Policy Implications:
As outlined in the August 2007 Public/Private Partnerships Policy Statement, the relationship between the Foundation and the PAAC is that of an alliance: “This type of public/private partnership involves organizations that have been created for the sole purpose of supporting a City program or array of City programs.”

This MOU is consistent with and furthers the intent of Comprehensive Plan Policy C-1.5:
“Work with Stanford University and other educational institutions, private, nonprofit, faith-based, public community service organizations and neighborhood associations, with the goal of enhancing the quality of life for Palo Alto’s student and residential communities. Increase opportunities for shared use among groups in the community at different times through public private partnerships and by developing programs, facilities and community services that ensure safe, non-discriminatory access to community services.”

**Environmental Impact**
Approval of this MOU is not a “project” within the meaning of CEQA.

**Attachments:**
- **Attachment5.a:** 2021 MOU with Art Center - Foundation (PAACF signed)
MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF PALO ALTO AND
THE PALO ALTO ART CENTER FOUNDATION
FOR MUTUAL COOPERATION AND SUPPORT

This Memorandum of Understanding (the “MOU”), dated for convenience December 1, 2021, is entered into by and between the CITY OF PALO ALTO, a California chartered municipal corporation (the "City"), and the PALO ALTO ART CENTER FOUNDATION, a California public benefit corporation organized under the California Nonprofit Public Benefit Corporation Law (the "Foundation") (individually, a “Party” and, collectively, the “Parties”), in reference to the following facts and circumstances:

RECITALS:

A. The City owns and operates the Palo Alto Art Center (the “Art Center”), located at 1313 Newell Road, Palo Alto. The Palo Alto Art Center is the place to see and make art, activate your creativity and expand your community. The Center achieves this through exhibitions, studio experiences, classes, and related educational programs. The Art Center is a program of the City’s Division of Arts and Sciences, Community Services Department.

B. The Foundation is a § 501(c)(3) public benefit corporation, which was founded in 1973 with the mission of expanding the reach and impact of the Palo Alto Art Center through fundraising and advocacy. By its operations- and education-related programs, activities and opportunities, the Foundation has assisted the CSD’s Art Center Director (the “Director”) and other staff in supporting and advocating on behalf of the Art Center’s operations, programs and activities over the past forty-eight years.

C. The Parties wish to more closely collaborate and mutually cooperate and support each other in the future, to improve, enhance, and sustain the capacity of the Art Center to develop and provide educational opportunities and related services to the Palo Alto community.

AGREEMENT:

NOW, THEREFORE, in consideration of the Recitals above, the following covenants, terms, conditions and provisions of this MOU, the Parties agree:

SECTION 1. TERM; TERMINATION

1.1 The term of this MOU will commence as of the date of full execution of this Agreement ("Effective date"), and shall continue through September 30, 2026 (the “Term”), unless it is earlier terminated by a Party as herein provided.

1.2 This MOU is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code (the “PAMC”). This MOU will terminate without penalty: (A) at the end of the fiscal year in the event that funds are not appropriated by the City for the Art Center’s programs for the following fiscal year or (B) at any time within a fiscal year in the event that funds are appropriated for a portion of the fiscal year and funds for this MOU are no longer available. This
Section 1.2 will take precedence in the event of a conflict with any other covenant, term, condition, or provision of this MOU. Nothing in this Section 1.2 is intended to affect the Foundation’s rights and remedies as may be available under applicable laws.

SECTION 2. RESPONSIBILITIES OF THE PARTIES

2.1 Responsibilities of the City

A. The management of the Art Center's facilities, programs and the CSD staff employees assigned to the Art Center, including, without limitation, the Director, and any and all independent contractors, subcontractors, consultants and volunteers hired by the City. The City will hire, supervise, evaluate and otherwise exercise supervision and control of its employees at the Art Center; provided, however, the City may invite the Foundation to assist the City in the selection of key CSD employees, who are or may be directly involved in the Art Center's management, operations and programs;

B. The construction, alterations, repairs and maintenance of the Art Center building facilities and open air spaces;

C. The provision of furnishings, fixtures and improvements, the performance of landscaping at the Art Center, and the provision of utility services to the Art Center;

D. The selection of one or more individuals to serve as the City's liaison to the Foundation's board of directors and/or any board committee or subcommittee (the "Board") meetings, including (1) a Council Member, if any, who will serve as the official liaison of the City to the Board, and (2) the Director, whose duties may include providing assistance directly to the Foundation, including the Board, in selected fundraising activities, as may be directed or approved by the City Manager, or designee;

E. The review of all community-related activities that the Foundation may propose for inclusion in the Art Center's programs. All activities of the Foundation will be pre-approved by the Director, or designee;

F. Develop and provide educational programs relating to the Art Center's programs and activities and supervise community volunteers in connection therewith;

G. Manage the Art Center exhibition and education programs in accordance with City, CSD, California and federal laws, museum procedures and applicable professional standards;

H. Provide mailing services and volunteer staffing and supervision for certain bulk mailings to the Foundation's members, and including any assistance deemed reasonably necessary arising in connection with annual fundraising activities;

I. Provide supervisory assistance in connection with cash handling and credit card transaction handling services relating to the Foundation's fundraising events, all in accordance with the City's cash handling policies and procedures, Policy and Procedures 1-3;
J. For customers who authorize it, share customer contact information with the Foundation for fundraising purposes.

K. Any other obligation that the City, the CSD or the Art Center may undertake in accordance with this MOU, upon reasonable notice to the Foundation; provided, however, any such undertaking will be memorialized, in writing, by an amendment to this MOU, in order that such undertaking will be binding upon the City.

2.2 Responsibilities of the Foundation

A. The supervision and management of its directors, officers, employees, volunteers, independent contractors, subcontractors and consultants, while they, and each of them, are exercising rights and/or performing obligations on behalf of the Foundation pursuant to this MOU; provided, however, the Parties acknowledge that, although certain Foundation employees, independent contractors, subcontractors, consultants and volunteers may be paid by the Foundation, to the extent such persons are also employees of the City and report to the Director, the City and not the Foundation shall be primarily responsible for the management and supervision of such persons.

B. The rendering of assistance to the Director (through the Board and/or staff), at the Director's request, including voluntary attendance and contribution of recommendations and advice at staff meetings of the Director;

C. Subject to the availability of adequate funding, the provision and staffing of activities to educate the public about the mission of the Art Center and its programs and amenities, and the mobilization of additional volunteers for the Art Center's projects and programs;

D. The development of a fundraising strategy to solicit cash and in-kind contributions from individuals, businesses and other similar entities (such as partnerships and corporations) and the implementation of a grants writing program to seek out funds for the support of the Art Center's programs and activities, which may include both capital and non-capital projects;

E. The acquisition and maintenance of charitable donations database management software for the purpose of recording and monitoring pertinent information relating to the Foundation's supporters and donors;

F. The purchase and maintenance of bulk mail privileges with the United States Postal Service for the purpose of facilitating the Foundation's fundraising activities;

G. At the Foundation's discretion, the acquisition as appropriate of personal property for the benefit of the City and the CSD, in particular, which the Foundation will endeavor to acquire for the purpose of donating the same to the City, and with respect to which the City will exercise all rights and obligations relating thereto; and

H. The rendering of any other service beyond those included in the annual Art Center Plan and related to the preservation, protection and enhancement of the Art Center and the artworks contained therein, as may be approved, in writing, by the Director.
I. Subject to the availability of adequate funding and at the Foundation's discretion, the operation, management, staffing and implementation of programs designed to provide art and other creative resources and activities in classrooms in neighboring communities and Palo Alto schools; and

2.2.1 Rendering assistance to the Director and her successor, upon her request, as that assistance may relate to the integration of the Parties’ programs.

2.3 The responsibilities of the Parties will include the following:

A. Under the direction of the Director, develop a long-term strategic plan to enhance and improve the vision of the Art Center (the “Strategic Plan”); and

B. Under the direction of the Director and consistent with the Strategic Plan, develop on an annual basis, effective as of July 1 of each year, a work plan that among other things establishes program, budget, fundraising, and administrative and operational priorities and activities for the applicable fiscal year of operations (each, an “Art Center Plan”). Each Art Center Plan will delineate the rights and obligations of the Parties and identify each Party’s duly authorized representative who is responsible for executing such rights and duties in connection therewith.

2.4 Notwithstanding any provision of this MOU to the contrary, any and all funds received by the Foundation (through donations, grants, or otherwise) shall remain the property of and shall be solely under the control of the Foundation. To the extent that the Foundation conducts its own funding activities without the participation of the City at or in connection with the Art Center, the Foundation shall control the method and timing of such funding.

2.5. The Foundation shall donate $81,000 annually to the City for the purposes of partially funding the following City positions: Director of Education, CFA Coordinator, School and Teacher Program Director, and the Project Look Coordinator. If the City eliminates or reduces any of these positions, the Foundation and the City shall meet and confer about potentially changing the amount of the annual donation. The parties acknowledge that this formalizes the past practice of the Foundation making this donation and the City using it to partially fund these positions.

2.6 To the extent that this Section 2 does not specifically identify the Party who will be primarily responsible for any action or decision in regard to the Art Center, the Parties agree that the City will be the party to assume all rights and obligations in connection with such decision.

SECTION 3. INDEMNITY

3.1 Each party will indemnify, defend and hold harmless the other party, and its respective governing body, employees, volunteers, and agents from and against any and all third party loss, liability, expense (including reasonable attorneys’ fees) or claims for injury or other damages (collectively “Claims”) arising out of the indemnifying party’s performance of this Agreement, but only in proportion to and to the extent such Claims are caused by or result from the negligent or intentional acts or omissions of the indemnifying party.
3.2 In the event of concurrent negligence of the parties, or the parties’ respective governing body, employees, volunteers, or agents, the liability for any and all Claims shall be apportioned under the California theory of comparative negligence as presently established or as may hereafter be modified. Nothing in this Agreement shall constitute a waiver or limitation of any rights that the indemnifying party may have under applicable law in the event of concurrent negligence of persons or entities other than the parties to this Agreement.

3.3 The parties intend and agree to cooperate with each other in the investigation and disposition of third-party liability claims arising out of the performance of this Agreement. Such cooperation may include joint investigation, defense and disposition of claims. The parties agree to promptly inform one another whenever an incident report, claim or complaint is filed or when an investigation is initiated concerning any service performed under this Agreement. In the event of a conflict in interest, each party may conduct its own investigation and engage its own counsel.

3.4 The provisions of this Section 3 shall survive the termination or expiration of this MOU.

SECTION 4. INSURANCE

4.1 As of the Effective Date, the Foundation, at its sole cost and expense, will obtain and maintain the following insurance coverage, acceptable to the City's insurance risk manager (the "Risk Manager") in full force and effect during the Term, insuring not only the Foundation but, with the exception of worker's compensation and employer's liability insurance, naming the City as an additional insured, concerning the Foundation's participation under this MOU.

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<th>POLICY</th>
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<tr>
<td>Worker’s Liability</td>
<td>Statutory</td>
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<tr>
<td>Commercial Automobile Liability</td>
<td>Bodily Injury: $1,000,000 each person</td>
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<td>Property Damage: $1,000,000 each person, including owned, hired, and non-owned automobiles</td>
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<tr>
<td>Comprehensive General Liability</td>
<td>Bodily Injury: $1,000,000 each person</td>
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<td>$1,000,000 each occurrence, $1,000,000 aggregate including products</td>
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<tr>
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<td>Property Damage: $1,000,000 each occurrence and completed operations</td>
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<td>Personal Injury: $1,000,000 each occurrence broad form contractual and personal injury.</td>
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4.2 Any deductibles must be declared to and accepted by the City’s Risk Manager. The Foundation's insurance will be carried in full force and effect on or before the Effective Date. The insurance provided by the Foundation shall satisfy the following requirements:
A. The Foundation shall deliver a certificate of insurance in which the party issuing the certificate shall endeavor to provide thirty (30) days' prior written notice of any proposed cancellation of the policy to: City of Palo Alto/Palo Alto Art Center Director, P.O. Box 10250, Palo Alto, CA 94303.

B. The City of Palo Alto shall be added by endorsement or otherwise as an additional insured as respects operations of the named insured at or from the Art Center.

C. Any insurance maintained by the City of Palo Alto will apply in excess of, and not contribute to, insurance provided by each policy provided by the Foundation."

4.3 Evidence of Insurance Coverage and/or Changes will be, as follows:

A. Certificate of Insurance. The Foundation agrees to deposit with the Director before the Effective Date, certificates of insurance necessary to satisfy the City that the insurance provisions of this MOU have been complied with, and to ensure that such insurance is kept in effect, with the certificates of deposit with the City, during the Term.

B. Review of Coverage. The City will retain the right, at any time, to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of the Risk Manager, the insurance provisions in this MOU do not provide adequate protection for the City and for members of the public using the Art Center in connection with City-Foundation events and Foundation-only events, the City Manager, or designee, may require, and the City will endeavor to give the Foundation at least sixty (60) days' prior written notice, an amount to provide adequate protection as determined by the Risk Manager. The City's requirements shall be reasonable and shall be designed to assure protection from and against the kind and extent of risk which exists at the time a change in insurance is required. The Foundation may terminate this MOU upon thirty (30) days' prior written notice if the Foundation will not agree to pay for additional insurance coverage as required by the Risk Manager.

C. Reserved.

D. Limit of Liability. As long as the Foundation obtains and maintains the policy or policies of insurance required by this Section 4, the Foundation's obligation under Section 3.1 will be limited to the coverage(s) afforded by such policy or policies of insurance.

E. Acceptability of Insurers. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A-VII.
SECTION 5. GENERAL LICENSE TO THE FOUNDATION

5.1 The City hereby grants the Foundation, its directors, officers, employees, contractors, subcontractors and consultants a nonexclusive license to enter upon and use the Art Center facilities in connection with the Foundation’s execution of its individual and/or joint responsibilities established by the Art Center Plan, including, but not limited to, organizing small group meetings and large group/community meetings and events, such as fundraising events, programs, and tours of the Art Center facilities, and using the office space provided to the Foundation, at no cost to the Foundation, under a license to use the Art Center’s facilities in connection with the exercise of its rights and responsibilities under this MOU. The City will not revoke this license while this MOU remains in effect. Any use of the Art Center facilities by the Foundation will be approved by the Director in regards to program scheduling, space availability, and the functionality of shared Art Center spaces for staff use. The City will provide to the employees of the Foundation security card access to the Art Center premises. These security cards may be revoked only for cause by the City; any additional cards will be approved by the Director, upon request, in writing.

SECTION 6. WAIVER

6.1 The waiver by either Party of any breach or violation of any covenant, term, or condition of this MOU or of the provisions of the Palo Alto Municipal Code or other City law, rule or regulation, will not be deemed to be a waiver of any such covenant, term, condition, or provision or of any subsequent breach or violation of the same or any other covenant, term, condition, or provision. The subsequent acceptance by either Party of any consideration which may become due or payable hereunder will not be deemed to be a waiver of any preceding breach or violation by the other Party.

SECTION 7. ASSIGNMENT

7.1 Neither Party may assign, transfer, or convey this MOU or any interest that it may have in this MOU without the other Party’s express consent or approval. Any attempted assignment by a Party without the required consent or approval of the other Party will be void and will confer no right, title, or interest in this MOU, or part thereof. In the event of an unauthorized assignment, at the option of the Party not making the assignment, this MOU may be terminated upon reasonable notice to the Party making the assignment.

SECTION 8. INDEPENDENT CONTRACTOR

8.1 In the exercise of its rights and responsibilities under this MOU, each Party acts at all times as an independent contractor and not as an employee of the other Party. Nothing in this MOU will be construed to establish a partnership, joint venture, group, pool, syndicate or agency between or among the Parties. No provision contained herein will be construed as authorizing or empowering any Party to assume or create any obligation or responsibility whatsoever, express or implied, on behalf, or in the name of, the other Party in any manner, or to make any representation, warranty or commitment on behalf of the other Party. In no event will either Party be liable for (a) any loss incurred by the other Party in the course of its performance hereunder, or (b) any debts, obligations or liabilities of the other Party, whether due or to become due.
SECTION 9. NOTICES

9.1 Any notice, request, consent or approval by a Party that is required to be furnished by this MOU, will be given, in writing, and delivered by personal service, the United States Postal Service, mailed, first class, postage prepaid, or by facsimile transmission, to the following:

To CITY:                      City Clerk
                                City of Palo Alto
                                P.O. Box 10250

Copy to:                      Director, Art Center
                                City of Palo Alto
                                P.O. Box 10250
                                Palo Alto, CA 94303

TO FOUNDATION:                President
                                Palo Alto Art Center Foundation
                                1313 Newell Road
                                Palo Alto, CA 94303

SECTION 10. MISCELLANEOUS

10.1 This MOU will be governed by and construed in accordance with the laws of the State of California, the Charter of the City of Palo Alto and the Palo Alto Municipal Code. The Parties will comply with all applicable federal, state and local laws in the exercise of their rights and the performance of their obligations under this MOU.

10.2 All covenants, terms, conditions, and provisions of this MOU, whether covenants or conditions, will be deemed to be both covenants and conditions.

10.3 This MOU represents the entire agreement between the Parties and supersedes all prior negotiations, representations and contracts, written or oral. This MOU may be amended by an instrument, in writing, signed by the Parties. This MOU may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one and the same instrument. This MOU may also be executed using the City’s electronic signature service Docusign.

10.4 The Parties agree that the normal rule of construction to the effect that any ambiguity is to be resolved against the drafting party will not be employed in the interpretation of this MOU or any exhibit or amendment thereto.

10.6 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 or in the United States District Court for the Northern District of California in the County of Santa Clara, State of California.
10.7 The prevailing Party in any action brought to enforce the provisions of this MOU may recover its reasonable costs and attorneys' fees expended in connection with that action.

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

IN WITNESS WHEREOF, the Parties by their duly authorized representatives have executed this MOU as of the Effective Date.

CITY OF PALO ALTO

___________________________________
Edward Shikada
City Manager
Date:

APPROVED:

___________________________________
Director of Administrative Services

___________________________________
Director of Community Services

APPROVED AS TO FORM FOR CITY:

___________________________________
Deputy City Attorney

PALO ALTO ART CENTER FOUNDATION

___________________________________
(Named)
President
Date: 1/18/2022
Meeting Date: 2/28/2022

Title: Approval of Amendment No. 2 to Professional Services Contract Number C20176858 With Sandis Civil Engineers to Increase the Not-to-Exceed Compensation by $50,000 (to $171,000) and to Extend the Term of the Contract to October 2026 for the Completion of Final Plans and Design Support for the Churchill Avenue Enhanced Bikeway Project

From: City Manager

Lead Department: Transportation Department

Recommendation:
Staff recommends that the City Council approve Amendment No. 2 to Contract No. C20176858 with Sandis Civil Engineers Surveyors Planners (Attachment A) to increase the not-to-exceed compensation by $50,000 and extend the term to October 2026 in order to provide engineering design services to complete the final design plans and construction documents, technical specifications, and cost estimates for the Churchill Avenue Enhanced Bikeway Project (PL-14000).

Background:
Churchill Avenue Enhanced Bikeway Project provides for the extension of the existing bike pathway that currently terminates at the Palo Alto High School driveway, to the west and terminating at El Camino Real. The traffic signal at El Camino Real and Churchill Avenue will be modified to accommodate users of the pathway crossing El Camino Real. In addition, it includes improvements enhancing pedestrian safety at various intersections within this segment.

Council awarded a one-year contract to Sandis Civil Engineers Surveyors Planners (Sandis) for design and environmental assessment of the Churchill Avenue Enhanced Bikeway Project (El Camino Real to Castilleja Avenue) on March 17, 2014 (CMR 4372). The concept plans were approved by Council on January 20, 2015 (CMR 5421), for the Churchill Avenue Bikeway Project.

Since the project was in design by Sandis, Council approved on October 7, 2019 (CMR 10491), an exemption from competitive solicitation under PAMC 2.30.330 Contract No. C20176858 to provide for the continuity of engineering design services and to complete the design of the environmental assessment, final plans, specifications, and cost estimates for the Churchill Avenue Enhanced Bikeway Project.
The project design has been on hold since March 2020 as City staff has been working with PAUSD in obtaining the right-of-way and/or easements required to complete the final plans and specifications. However, during this time, the Sandis contract expired in September 2021 and has been extended until March 2022 to allow time to process this amendment. The amendment to Sandis Contract will allow staff to finalize the project design plans and complete the design process while continuing to work with PAUSD on finalizing the details of the project easements.

**Discussion:**
Churchill Avenue Enhanced Bikeway Project provides improved facilities for all modes including bicycles, pedestrians, and motor vehicles using Churchill Avenue and for vehicles turning into Palo Alto High School. This corridor sees substantial use of bicycle and pedestrian activity as a Safe Route to School and is also used by automobile commuters who travel north and south through Palo Alto. Below is a summary of the proposed improvements for the Churchill Avenue Enhanced Bikeway Project:

- The proposed design plan extends the existing bicycle path along Churchill Avenue up to the intersection with El Camino Real, where an improved crossing (at El Camino Real) would connect to the Stanford Perimeter Trail and onto the Stanford University campus. The proposed concept plan line includes extending the existing pathway that currently terminates at the Palo Alto High School driveway, to the west and terminating at El Camino Real where the modified traffic signal would be designed to accommodate users crossing El Camino Real.

- The design also includes a new decorative traffic signal pole at the intersection of El Camino Real and Churchill Avenue, removal of the existing “pork chop” island, the addition of a pedestrian crosswalk across the north leg of the intersection, and the addition of a right-turn vehicle lane on westbound Churchill. Textured and color treatments, enhanced vehicle detection, and connection to Stanford University campus are also proposed as part of this modification, which also requires consultation with Caltrans, Palo Alto Unified School District (PAUSD), and Stanford.

- Improvements also include striping updates on Churchill including high visibility crosswalks. The intersection of Madrono and Churchill Avenue would also receive intersection modification treatments that include a raised enhanced crosswalk that would act as a speed table. In addition, a sidewalk extension (bulb-out) on the south corners of Castilleja Avenue is proposed in order to reduce the pedestrian crossing distance and accommodate the rectangular rapid flashing beacons.

The proposed amendment would extend the existing contract for another 4-years, with additional funding to allow Sandis engineers to complete the design and provide related design support services to the City during the construction of the project. The project is designed to a
95% level and the City would like the consultant, Sandis, to complete the design and prepare construction documents for the project so that staff can move forward with final design and construction.

Since El Camino Real (Route 82) is a State highway, Caltrans is the lead agency and design plans on El Camino Real will need to be submitted for their review and approval in order obtain an encroachment permit needed for construction. As part of their review, Caltrans will require additional studies and will have to review and approve all proposed changes made to the intersection of El Camino. Funds are included as part of the additional services amount to cover any other efforts and studies required for design approval. Additionally, staff will continue to work with PAUSD on this project.

**Policy Implications:**
The approval of this contract is consistent with existing City policies, including the Council approved Bicycle + Pedestrian Transportation Plan goals and objectives. The plan objectives that are advanced by the accommodation of bicyclists along this corridor include:

- **Objective 1:** Double the rate of bicycling for both local and total work commutes by 2020 (to 15% and 5%, respectively).
- **Objective 2:** Convert discretionary vehicle trips into walking and bicycling trips to reduce City transportation-related greenhouse gas (GHG) emissions 15% by 2020.
- **Objective 3:** Develop a core network of shared paths, bikeways, and traffic-calmed streets that connects business and residential districts, schools, parks, and open spaces to promote healthy, active living.
- **Objective 4:** Plan, construct, and maintain ‘Complete Streets’ that are safe and accessible to all modes and people of all ages and abilities.
- **Objective 5:** Promote efficient, sustainable, and creative use of limited public resources through integrated design and planning.

In addition, the Comprehensive Plan goals, policies, and programs that support the accommodation of bicyclists on Embarcadero include:

**Goal T-3:** Facilities, Services, and Programs the Encourage and Promote Walking and Bicycling.

**Prog. T-19:** Develop, periodically update, and implement a Bicycle Facilities Improvement Program and a Pedestrian Facilities Improvement Program that identify and prioritize critical pedestrian and bicycle links to parks, schools, retail centers, and civic facilities.

**Policy T-14:** Improve pedestrian and bicycle access to and between local destination, including public facilities, schools, parks, open space, employment districts, shopping centers, and multi modal transit stations.
Policy T-25: When constructing or modifying roadways, plan for usage of the roadway space by all users, including motor vehicles, transit vehicles, bicyclists, and pedestrians.

Policy T-29: Make effective use of the traffic-carrying ability of Palo Alto’s major street network without compromising the need of pedestrians and bicyclists also using this network.

Resource Impact:

Funding for the proposed Amendment 2 in the amount of $50,000 is budgeted in the FY 2022 Adopted Capital Budget for the Churchill Avenue Enhanced Bikeway Project (PL-14000). The total contract amount for this project is not to exceed $171,000, which includes $30,000 for project design services and $20,000 for additional services to support Caltrans requirements, if needed. The term of the contract will also be extended for five years to include construction support for the duration of the construction of the project.

Timeline:
Upon Council approval, staff will continue to work with PAUSD staff to finalize the easement agreements so that Sandis Civil Engineers can finalize and complete the 95% design plans for City and Caltrans (State) review and will work with relevant stakeholders. Staff estimates a return to Council for the approval of a construction contract by Fall/Winter 2022.

Stakeholder Engagement
Since the approval of the Sandis contract in 2019, staff has presented this project at the PAUSD Board meeting, PABAC, City-School Traffic Safety Committee, and Safe Route to School staff. A community meeting will also be scheduled to present the final plans to the community, prior to finalizing the construction documents.

Environmental Review:
The contract approval does not require an environmental review; however, given the nature of the proposed improvements for the project, the project qualifies for a Class 1 Categorical Exemption under California Environmental Quality Act (CEQA) Guidelines Section 15301. The Class 1 exemption covers minor alterations to existing facilities so long as they involve no or negligible expansion of use.

Attachments:
- Attachment6.a: C20176858 Sandis Civil Engineer Amendment 2
AMENDMENT NO. 2 TO CONTRACT NO. C20176858
BETWEEN THE CITY OF PALO ALTO AND
SANDIS CIVIL ENGINEERS SURVEYORS PLANNERS

This Amendment No. 1 (this “Amendment”) to Contract No. C20176858 (the “Contract” as defined below) is entered into as of February 28, 2022, by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and SANDIS CIVIL ENGINEERS SURVEYORS PLANNERS, a California corporation, located at 636 9th Street, Oakland, CA 94607 (“CONSULTANT”). CITY and CONSULTANT are referred to collectively as the “Parties” in this Amendment.

RE CITALS

A. The Contract (as defined below) was entered into by and between the Parties hereto for the provision of engaging a consultant to develop improvements at the Churchill Avenue Corridor, as detailed therein.

B. The Parties now wish to amend the Contract in order to Extend the term of the contract to October 6, 2026 and to increase the compensation by $50,000. Basic services will increase by $30,000 to complete the final design plans and construction documents, technical specifications, and cost estimates, and to add scope for design support during construction. Additional services will increase by $20,000.

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:

a. Contract. The term “Contract” shall mean Contract No. C20176858 between CONSULTANT and CITY, dated October 7, 2019, as amended by:

Amendment No.1, dated September 6, 2021

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 October 6, 2026 unless terminated earlier pursuant to Section 19 of this Agreement.”
SECTION 3. Section 4. NOT TO EXCEED COMPENSATION of the Contract is hereby amended to read as follows:

“The compensation to be paid to CONSULTANT for performance of the Services described in Exhibit “A” (“Basic Services”), and reimbursable expenses, shall not exceed One Hundred Twenty Six Thousand Dollars ($126,000.00).

CONSULTANT agrees to complete all Basic Services, including reimbursable expenses, within this amount. In the event Additional Services are authorized, the total compensation for Basic Services, Additional Services and reimbursable expenses shall not exceed One Hundred Seventy One Thousand Dollars ($171,000.00). The applicable rates and schedule of payment are set out at Exhibit “C-1”, entitled “HOURLY RATE SCHEDULE,” which is attached to and made a part of this Agreement. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to the CITY.

Additional Services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit “C”. CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not included within the Scope of Services described at Exhibit “A”.

SECTION 4. The following exhibit(s) to the Contract is/are hereby amended or added, as indicated below, to read as set forth in the attachment(s) to this Amendment, which is/are hereby incorporated in full into this Amendment and into the Contract by this reference:

a. Exhibit “A” entitled “Scope of Services”, AMENDED, REPLACES PREVIOUS.

b. Exhibit “B” entitled “Schedule of Performance”, AMENDED, REPLACES PREVIOUS.

c. Exhibit “C” entitled “Compensation”, AMENDED, REPLACES PREVIOUS.

SECTION 5. Legal Effect. Except as modified by this Amendment, all other provisions of the Contract, including any exhibits thereto, shall remain in full force and effect.

SECTION 6. Incorporation of Recitals. The recitals set forth above are terms of this Amendment and are fully incorporated herein by this reference.
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

SANDIS CIVIL ENGINEERS SURVEYORS PLANNERS

Officer 1

By: 

Name: Jeffery M. Setera

Title: President

Attachments:

Exhibit A: Scope of Services (AMENDED, REPLACES PREVIOUS)
Exhibit B: Schedule of Performance (AMENDED, REPLACES PREVIOUS)
Exhibit C: Compensation (AMENDED, REPLACES PREVIOUS)
EXHIBIT “A”
SCOPe OF SERVICES
AMENDED, REPLACES PREVIOUS

The Scope of Services for this Agreement continues work that CONSULTANT previously provided as described in City of Palo Alto Contract C14150008, which were services for the development of the Churchill Avenue Corridor Improvements. Stages 1 through 3 are provided below as background information; these stages summarized the services provided in Contract C14150008. The Scope of Services for this Agreement is listed as “Stage 4” below.

Background – Previous Workplan (Stages 1-3)

Project Elements:
1. Plan Line Concepts and PEER/Encroachment Permit: CONSULTANT to determine the community preferred alignment and improvements along the corridor and to coordinate closely with Caltrans and CITY for development of innovative intersection treatments at the El Camino Real & Churchill Avenue intersection. At the El Camino Real & Churchill Avenue intersection CITY seeks capacity improvements along Churchill Avenue as well as project elements to better facilitate bicycle and pedestrian movements across the intersection as well as transit improvements that will need to be coordinated by the CONSULTANT with the Valley Transportation Authority (VTA)- Bus Rapid Transit (BRT) program. The CONSULTANT will also be required to coordinate with Stanford University to coordinate project improvements with their Stanford Perimeter Trail Project - El Camino Real segment and with the Palo Alto Unified School District for right-of-way interest and operations improvements to their district offices located at 25 Churchill Avenue and Palo Alto High School.

2. Environmental Analysis Study: CONSULTANT shall prepare an environmental analysis/assessment for the community-preferred project alignment developed as part of Task 1 including any studies required by CITY as part of the improvements for the El Camino Real & Churchill Avenue intersection. It is assumed that the Permit Engineering Evaluation Report (PEER) submitted to Caltrans during Stage 1 will be approved. The CONSULTANT shall prepare a focused traffic study to identify appropriate intersection capacity treatments including the need for a micro simulation model for use as part of the community outreach process for the project.

3. Development of Plans, Specifications & Engineer ‘s Estimate ‘s: CONSULTANT shall be responsible for the development of PS&E for project including: traffic signal modifications, street lighting improvements, sidewalk realignment and widening, drainage improvements, signage & striping, innovative bicycle treatments, traffic calming elements, landscaping, wayfinding, and transit improvements.

4. Additional Service: CONSULTANT shall provide as-needed support during the project life to assist CITY in implementation of the project including, but not limited to: grant writing support and bidding assistance should additional funding be identified for construction.

Stage 1 - Concept Plan Lines & Permit Engineering Evaluation Report/Encroachment Permit

CONSULTANT shall be responsible for the development of concept plan line alternatives for the Churchill Avenue Corridor Improvement Project for the consideration of the Palo Alto community. CONSULTANT shall participate in Community Outreach meetings to identify or further develop one of the alternatives into a Community Preferred Alignment Alternative. CITY anticipates identifying up to three alignment alternatives for consideration of the community before finalizing a Community Preferred Alignment that will be advanced and submitted with an Encroachment Permit and Permit Engineering Evaluation Report.
CONSULTANT will be responsible for outreach to and organizing meetings with the following agencies: Palo Alto Community, Caltrans, Stanford University, and Palo Alto Unified School District. CONSULTANT shall take into account the following Design Considerations as part of the development of Plan Line Concept Alternatives:

- Utilities (Above and Below Ground)
- Real Property Acquisition (Temporary Construction Easements and Design)
- Safety
- Walk-ability, Bicycle Ride-ability, and Transit Connectivity
- Adjacent Public Facilities or Facilities of Interest such as Palo Alto High School, Stanford University, Town & Country Shopping Center, and connection with existing and planned Bicycle Routes
- Project Mitigations to protect the Quality of Life for existing residential properties adjacent to the proposed project area including the South Gate Neighborhood located south of Churchill Avenue between the Caltrain Tracks to the East, El Camino Real to the west, and Stanford Avenue to the South
- Cost

After development of a Community Preferred Alignment Alternative for the Churchill Avenue Corridor Improvement project the CONSULTANT shall begin coordination with Caltrans. CONSULTANT is proposing to submit a Permit Engineering Evaluation Report (PEER) with the initial encroachment permit application. Upon successful approval of the PEER with Caltrans the CONSULTANT will present the findings of the PEER to the Palo Alto Bicycle Advisory Committee (PABAC), Planning & Transportation Commission (PTC), Palo Alto Unified School District (PAUSD)-Board of Directors, and CITY Council for final approval.

CONSULTANT shall be required to participate in the following community outreach meetings during this stage:
- Three (3) community outreach meetings
- Two (2) Palo Alto Bicycle Advisory Committee meetings
- Two (2) Palo Alto Unified School District meetings
- One (1) City-School Traffic Safety Committee meeting
- Two (2) PTC meetings, and
- One (1) City Council meeting.

CITY will be responsible for securing community meeting facilities. CONSULTANT shall be responsible for the preparation of all outreach materials, including media ads to be coordinated for publication by CITY, meeting notice flyers for mailing to residents by CITY, and community meeting presentations. The CONSULTANT shall also serve as Scribe at all community.

Deliverables for Stage 1 should include the following items:
- 10% Design - Concept Plan Line Alignments
- Preliminary Cost Estimates for alignment alternatives
- Identifying of Probable Impact and Mitigation Alternatives for neighborhood Quality of Life preservation
- Final Caltrans Approved Permit Engineering Evaluation Report (PEER)

**Stage 2 - Environmental Analysis Study**

Upon approval of the Permit Engineering Evaluation Report (PEER) by Caltrans, review and approval of required Environmental Analysis Studies will be transitioned over to CITY. CONSULTANT shall be responsible for the development of the appropriate Environmental Analysis Studies required by CITY. The CONSULTANT team includes an additional environmental CONSULTANT to provide oversight/input on Environmental Analysis component of project. CONSULTANT, as part of the Environmental Analysis, shall also be responsible
for advancing the Community Preferred Concept Plan Line alternative into a 35% design stage.

It is assumed that the following technical studies will be required as part of the Environment Analysis component of this project:

- Biological Resources
- Air Quality/Green House Gas
- Hazards & Hazardous Emissions Materials
- Preliminary Geotechnical
- Transportation/Traffic
- Cultural Resources
- Hydrology/Water Quality
- Noise

The CONSULTANT’S Team shall also identify any permits required from State and Federal Regulatory Agencies (e.g., Caltrans, State Fish & Wildlife, Army Corps of Engineers, etc.).

CONSULTANT will be required to participate in the following community outreach meetings during this stage:

- Three (3) Community Outreach Meetings
- One (1) Study Session Planning & Transportation Commission
- One (1) Study Session City Council
- One (1) Presentation - Planning PAUSD Board of Directors
- One (1) Presentation/Approval - Palo Alto City Council

CITY will be responsible for securing community meeting facilities. CONSULTANT shall be responsible for the preparation of all outreach materials, including media ads to be coordinated for publication by CITY, meeting notice flyers for mailing to residents by CITY, and community meeting presentations. The CONSULTANT shall also serve as Scribe at all community meetings.

Deliverables for the Environmental Analysis stage for this project shall also include the following elements:

- Final Environmental Assessment reports required by CITY of Palo Alto
- 35%PS&E
- Project architectural renderings of key improvements areas such as the El Camino Real & Churchill Avenue and Churchill Avenue & Castilleja intersections

Stage 3 - Development of Plans, Specifications and Engineer’s Estimates

Upon approval of the Final Environmental Report for the Churchill Avenue Corridor Improvements project, the CONSULTANT shall proceed to prepare final plans, specifications, and engineer’s estimates for the construction of the project.

The improvement plans shall include the following civil details prepared by a Registered Professional Civil Engineer with good standing with the State of California:

- Cover Sheet
- Project Notes
- Project Plan and Profile
- Demolition Plans
- Plan Details for Improvements, including but not limited to:
  - Multi-Use Trail Sections
• Project Specifications consistent with Palo Alto Standard Specifications and Special Provisions to match the Project Improvement Plan requirements
• CONSULTANT shall provide 35%, 65%, 95% and 100% Engineer’s Estimates based on improvement plans and comparable bids for similar projects to ensure the project remains within the project budget (CITY may elect to hire an outside Construction Management (CM) firm for Value Engineering and outside PEER review. CONSULTANT shall be expected to work with CM cooperatively.)

CONSULTANT shall apply for and complete all forms required from Caltrans for design exemption and encroachment permits. CONSULTANT shall submit detailed schedule based on the improvements plans to CITY and should to include the following tasks:
• Base 35% Plans Revised from Environmental Process
  o Community Outreach Meeting to Identify Landscape/Hardscape and Streetscape palette
  o Study Session with Architectural Review Board for approval of shrub and tree planting palettes and decorative pavement treatments recommended by the Project Landscape Architect and Project Engineer
• 65% Improvement Plans
  o Final Community Outreach Meeting
• 95% Check Print Plan Set
  o Presentation of Project to Parks & Recreation Commission
  o Presentation of Project to Planning & Transportation Commission
• 100% Bid Set
  o City Council Presentation of Final Project

Meetings with CITY staff for the review of design plans, specifications and construction staging shall be held on site on a monthly basis. CITY will be responsible for securing community meeting facilities. The CONSULTANT shall be responsible for the preparation of all outreach materials, including media ads to be coordinated for publication by CITY, meeting notice flyers for mailing to residents by CITY, and community meeting presentations. The CONSULTANT shall also serve as Scribe at all community meetings and provide CITY with Meeting Notes and Action Notes within 5 business days of each meeting.

CITY anticipates procurement of an outside Construction Management Firm during this stage to assist the CITY in reviewing plans prepared by the CONSULTANT and to conduct Value Engineering alternatives to ensure that the project remains on-budget. The CONSULTANT will be required to work with the CONSULTANT Management Firm during the development of the plans.

Deliverables for the Development of PS&E stage for this project shall also include the following elements:
• 100% PS&E Bid Package
• Procurement of all necessary encroachment permits to allow for the construction of the project
Stage 4 - Remaining Tasks to Be Completed through Stages 1 through 3 (as of October 2019)
The project is currently split into two separate plan set submittals: Phase 1A, which includes improvements located within the Caltrans Right-of-Way at the intersection of El Camino Real and Churchill Avenue; and Phase 1B, which includes pathway improvements along the northern edge of Churchill Avenue between the El Camino Real and Castilleja Avenue Intersections. Based on recent discussions, the Phases are to be combined into a single plan set for City review and bidding purposes. In addition, a series of design changes are requested including removal of the proposed bike signal at the Churchill/ECR intersection and modifications to the bulbouts, new traffic signal at the Churchill/ECR, Churchill/Madrone, and Churchill/Castilleja intersections, and relocation of the City’s electrical transformers located on Palo Alto High School’s property.

Design and Permitting
• Combine Phase 1A and Phase 1B plan sets and supporting documents into single package.
• Revise Intersection of El Camino Real and Churchill Avenue design and submit Caltrans
• Encroachment Permit Application including: Plans, Specifications, and Engineer’s Estimates
• Revise/Reissue 65% PS&E Submittal for overall project based on City comments (including landscape plans).
• Prepare 100% PS&E (Bid Documents) submittal and resubmit to City and Caltrans
• Prepare technical specifications and cost estimate
• Revise Plat Maps and Legal Descriptions for required easement documents.
• Coordinate improvements with PAUSD.
• Attend up to two (2) meetings with City/agency staff.

Environmental Clearance Documents/CEQA Checklist
• Prepare CEQA Checklist for categorically exempt project.
• If required, prepare the following cultural resources reports:
  o Area of Potential Effects (APE) Map
  o Archaeological Survey Report (ASR), including Native American consultation
  o Historic Resources Compliance Report (HRCR)
• Meet with Caltrans staff to coordinate CE process.

Public Meeting Attendance
• Attend up to five (5) public meetings, including
  o One (1) council meeting
  o One (1) Planning and Transportation Commission meeting
  o One (1) School Board meeting
  o One City School Traffic Committee meeting
  o One Community meeting

Bid Assistance
• Assist City staff in preparation of any additional bid documents required for Public bid process.
• Assist City in review of public bids.

Assumptions/Exclusions
• The above scope of work includes design and coordination efforts up to the issuance of construction bid documents and bid support. Construction support services are not included as part of this effort.

Amendment Number 2
Amendment Number 2 adds to the scope of services to include design support during construction, including:
• Attend a pre-construction meeting.
• Provide four (4) site visits to observe the construction of the civil related site work.
• Assist and respond to the owner/client in civil related requests for information (RFI’S) and review and approve contractor submittals during construction.
• Review change orders when needed.
(Contractor shall not engage in any work subject to prevailing wage under the California Labor Code).
CONSULTANT shall perform the Services so as to complete each milestone within the number of days/weeks 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.

<table>
<thead>
<tr>
<th>Milestones</th>
<th>Completion From NTP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Project Restart Meeting</td>
<td>Week of 10/15/2019</td>
</tr>
<tr>
<td>2. Revise design based on City comments/direction</td>
<td>10/15-11/5/2019 (3 weeks)</td>
</tr>
<tr>
<td>3. Submit PS&amp;E and supporting documents to City for review</td>
<td>11/5/20219</td>
</tr>
<tr>
<td>4. Submit PS&amp;E and supporting documents to Caltrans</td>
<td>11/5/2019</td>
</tr>
<tr>
<td>5. City/Caltrans Review Period</td>
<td>12/5/2019</td>
</tr>
<tr>
<td>6. Revise Plans and Resubmit (100% PS&amp;E)</td>
<td>12/2021</td>
</tr>
<tr>
<td>7. City/Caltrans Review period</td>
<td>12/2021-2/2022</td>
</tr>
<tr>
<td>8. Incorporate final comments/Finalize Plan</td>
<td>3/2022</td>
</tr>
<tr>
<td>9. Design Completion</td>
<td>5/2022</td>
</tr>
<tr>
<td>10. Design Support during Construction</td>
<td>10/2026</td>
</tr>
</tbody>
</table>
EXHIBIT “C”
COMPENSATION
AMENDED, REPLACES PREVIOUS

The CITY agrees to compensate the CONSULTANT for professional 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 hourly rate schedule attached as exhibit C-1 up to the not to exceed budget amount for each task set forth below. CONSULTANT shall perform the tasks and categories of work as outlined and budgeted below. The CITY’s Project Manager may approve in writing the transfer of budget amounts between any of the tasks or categories listed below provided the total compensation for Basic Services, including reimbursable expenses, and the total compensation for Additional Services do not exceed the amounts set forth in Section 4 of this Agreement.

<table>
<thead>
<tr>
<th>BUDGET SCHEDULE</th>
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<tbody>
<tr>
<td>Stage 4</td>
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<tr>
<td>Remaining Task to be completed through Stages 1 through 3 (as of October 2019)</td>
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<tr>
<td>Amendment No. 2</td>
<td>$126,000.00</td>
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<tr>
<td>Subtotal Basic Services</td>
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<tr>
<td>Amendment No. 2 – Additional Services (Not to Exceed)</td>
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<tr>
<td>Amendment No. 2 – Additional Services (Not to Exceed)</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>Maximum Total Compensation</td>
<td>$171,000.00</td>
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REIMBURSABLE EXPENSES
The administrative, overhead, secretarial time or secretarial overtime, word processing, photocopying, in-house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. CITY shall reimburse CONSULTANT for the following reimbursable expenses at cost. Expenses for which CONSULTANT shall be reimbursed are: None

ADDITIONAL SERVICES
The CONSULTANT shall provide additional services only by advanced, written authorization from the CITY. The CONSULTANT, at the CITY’s project manager’s request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and CONSULTANT’s proposed maximum compensation, including reimbursable expense, for such services based on the rates set forth in Exhibit C-1. The additional services scope, schedule and maximum compensation shall be negotiated and agreed to in writing by the CITY’s and CONSULTANT prior to commencement of the services. Payment for additional services is subject to all requirements and restrictions in this Agreement.
## Certificate Of Completion

**Envelope Id:** C816DBD1CD6C4809C6CCE3B1941C90C  
**Status:** Completed  
**Subject:** Please DocuSign: C20176858_Amend No2_Sandis_final.pdf  
**Source Envelope:**  
- **Document Pages:** 10  
- **Certificate Pages:** 2  
- **AutoNav:** Enabled  
- **Envelopedl Stamping:** Enabled  
- **Time Zone:** (UTC-08:00) Pacific Time (US & Canada)

**Record Tracking**

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<tr>
<td>Original</td>
<td>Mimi Nguyen</td>
<td>DocuSign</td>
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</tbody>
</table>

<table>
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<tbody>
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<table>
<thead>
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</thead>
<tbody>
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<td>DocuSign</td>
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### Signer Events

<table>
<thead>
<tr>
<th>Signer</th>
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</thead>
<tbody>
<tr>
<td>Jeffery M. Setera</td>
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<tr>
<td><a href="mailto:jsetera@sandis.net">jsetera@sandis.net</a></td>
<td>Using IP Address: 174.241.41.222</td>
<td>Viewed: 2/15/2022 10:17:49 AM</td>
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<tr>
<td>President</td>
<td>Signed using mobile</td>
<td>Signed: 2/15/2022 10:19:16 AM</td>
</tr>
<tr>
<td>SANDIS</td>
<td></td>
<td></td>
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<tr>
<td>Shahla Yazdy</td>
<td></td>
<td></td>
</tr>
<tr>
<td><a href="mailto:Shahla.Yazdy@CityofPaloAlto.org">Shahla.Yazdy@CityofPaloAlto.org</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Security Level: Email, Account Authentication</td>
<td>(None)</td>
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<tr>
<td>Elizabeth Egli</td>
<td></td>
<td></td>
</tr>
<tr>
<td><a href="mailto:elizabeth.egli@cityofpaloalto.org">elizabeth.egli@cityofpaloalto.org</a></td>
<td></td>
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<tr>
<td>Management Analyst</td>
<td></td>
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### Editor Delivery Events

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### Agent Delivery Events

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### Intermediary Delivery Events

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### Certified Delivery Events

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<th>Status</th>
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</thead>
</table>

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<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Shahla Yazdy</td>
<td>Sent: 2/15/2022 10:19:18 AM</td>
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## Electronic Record and Signature Disclosure

Not Offered via DocuSign

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<td>Envelope Summary Events</td>
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<tr>
<td>---------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>Envelope Sent</td>
<td>Hashed/Encrypted</td>
</tr>
<tr>
<td>Certified Delivered</td>
<td>Security Checked</td>
</tr>
<tr>
<td>Signing Complete</td>
<td>Security Checked</td>
</tr>
<tr>
<td>Completed</td>
<td>Security Checked</td>
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</table>
City of Palo Alto
City Council Staff Report

Meeting Date: 2/28/2022

Title: Staff and Utilities Advisory Commission Recommend the Council Adopt a Resolution Amending Utilities Rule and Regulation 11 (Billing, Adjustments and Payment of Bills) to Set a $5,000 Limit on Fee-Free Credit Card Payments and Apply a Cost-Recovery Charge for Credit Card Payments in Excess of $5,000

From: City Manager

Lead Department: Utilities

Recommendation
Staff and the Utilities Advisory Commission (UAC) recommend that the Council adopt a resolution amending Utilities Rule and Regulation 11 (Billing, Adjustments and Payment of Bills) to set a $5,000 limit on fee-free credit card payments for monthly utility bills, and apply a cost-recovery charge for credit card payments in excess of $5,000.

Executive Summary
Utilities’ Rules and Regulations govern utility services in the City of Palo Alto (City) and the fees charged for those services. They are updated as needed to ensure Utilities’ procedures meet industry practices, standards, and requirements. The recommended amendment adds policies and procedures to Rule and Regulation 11 (Billing, Adjustments and Payment of Bills). The additions are as follows: customers will be able to make credit card payments without incurring cost-recovery fees, up to a maximum of $5,000 per monthly account, and the City will apply a cost-recovery charge (up to 2.7%) to recover credit card merchant fees charged to the City for any amounts charged over the $5,000 limit. Customers with balances greater than $5,000 can pay their bills with no additional fees via bank draft, automated clearing house (ACH), check, or wire transfer (Attachment A – Updated Version and Attachment B – Redlined Version).

Background
In 2006, the City created a credit card policy (ASD 1-47) to codify City practices and establish guidelines on the acceptance of credit card payments. As part of the policy, the City did not charge a convenience fee for credit card payments. However, the City of Palo Alto Utilities (CPAU) did not accept credit card payments of more than $10,000 per month from a single account. The credit card limit was added to control the credit card processing fees which were absorbed by CPAU.
In 2013, the City retired that credit card policy because CPAU wanted to provide more payment flexibility to their large commercial customers who preferred to pay by credit card. At that time, only 14 customers, comprising 6.7% of CPAU’s 209 large commercial customers, used credit cards to pay their utility bills. By eliminating the $10,000 credit card limit, the incremental credit card fees for accounts greater than $10,000 was approximately $22,440 in 2013. Since then, the number of utility customers who pay their bills by credit card, and the value of credit card fees CPAU pays as a result, has increased dramatically.

Discussion
Historically, the majority of credit card fees for municipal fee transactions, classes, fines, and utility payments have been paid by the City without being passed on to customers and residents. More recently, in order to reduce and recover some of the credit card fees, the Administrative Services Department (ASD) began including the cost of credit card fees into some fees for services, and exploring alternative payment methods to ensure this cost of doing business is not impacting the availability of funds for service delivery while ensuring a smooth experience for the customer. As a first phase, in fiscal year (FY) 2022, staff implemented a new service delivery model for the remittance of transient occupancy taxes (TOT) payment processing from hotels and motels to an online platform managed by, Avenu Analytics. This transition included a change in processing fees for credit card usage; a processing fee is now assessed on customers for credit card payments for remittance of TOT. With this change, based on figures from FY 2020, the City can expect to avoid $60,000 to $90,000 in credit card processing fees related to TOT payments annually. The City is also developing a broader policy to ensure that cost recovery of credit card payments is included in the evaluation of service costs and consequently the fees for those services.

Because CPAU has faced large increases in credit card fees for utility payments in recent years, it is prudent for CPAU to implement a policy promptly to manage this escalating cost, and ensure the cost of services for delivery of utility services is appropriately distributed to the full customer base. Credit card fees for utility payments have increased by 141% in the past five years from $472,217 in FY 2017 to $1,139,418 in FY 2021. More customers (both residential and commercial) are paying their utility bills by credit card due to customer convenience and benefits received from their credit card reward programs. In addition, credit card companies are increasing their credit card charges. To address this growing cost, CPAU recommends implementing a maximum fee-free credit card payment of $5,000 per monthly utility account to reduce and manage the financial impact of credit card fees.

CPAU predicts that this new credit card maximum will affect approximately 1% of current payments. In November 2021, CPAU received 9,200 credit card payments ranging from $1 to $75,000. Of the 9,200 credit card payments, 9,100, or 98.9% of the payments, were less than $5,000, leaving an estimated 100 customers potentially impacted by this new maximum fee-free credit card payment limit of $5,000. Over the past several months, CPAU has contacted large commercial customers paying via credit card and have converted some to bank draft or wire transfer (estimated reduction of $100,000 in annual credit card fees), while others
preferred to continue paying via credit card due to convenience. With the new maximum fee-free credit card amount of $5,000, approximately 100 utility customers will be impacted if they continue to pay utility bills via credit card. Staff will contact these customers to alert them of the credit card payment change and request that they switch to an alternative payment method (i.e., bank draft, ACH, check, or wire transfer) to avoid the cost recovery fee. This will potentially reduce the total credit card fee amount charged to the City by 50%, or $550,000. If these customers elect to continue to pay via credit card, CPAU will assess a credit card cost-recovery fee of up to 2.7\% \(^1\) of the payment amount greater than $5,000.

Staff plans to have the customer portal, interactive voice response (IVR), and cashiering systems configured to limit payments to $5,000 per credit card payment per monthly account. System reconfiguration and programming may take several months to one year because it may require professional services and contract amendments with the respective vendors. Staff currently estimates one-time professional service costs ranging from $25,000 - $75,000 for system reconfiguration of the various payment platforms in addition to 200 – 350 hours of staff time (or up to three months) to assist with testing and implementation. In the meantime, staff plans to monitor Utilities credit card payments on a routine basis to determine if customers are paying over $5,000 per account per invoice using a credit card. Staff plans to reach out to these customers over the phone or provide written notification to advise this is no longer possible without an additional cost-recovery fee. Should credit card payments continue to exceed $5,000, effective March 1, 2022, staff will assess a cost-recovery charge of up to 2.7\% of the payment amount greater than $5,000 in order to recover credit card merchant fees charged to the City. Utilities-related credit card processing fees average between 0.5\% and 2.7\% of the total payment amount depending on the type of credit card used by the customer.

**Timeline**

CPAU will notify customers of the credit card change by direct mail and through the customer account management portal MyCPAU during February and March 2022. CPAU will implement the maximum credit card payment change effective on March 1, 2022.

**Resource Impact**

CPAU staff expects a reduction of approximately $550,000 in credit card fees on an annual basis as a result of the credit card limit and direct communication with customers. There are sufficient resources in the FY 2022 Operating Budget to enable these necessary changes. CPAU will continue to monitor credit card payment activity and fees. Staff currently estimates one-time professional service costs ranging from $25,000 - $75,000 for system reconfiguration of the various payment platforms in addition to 200 – 350 hours of staff time (or up to three dedicated months) to assist with testing and implementation.

**Stakeholder Engagement**

\(^1\) Utilities-related credit card processing fees range between 0.5\% and 2.7\% of the total payment amount, depending on the type of credit card used by the customer.
The UAC approved staff’s recommendation on January 5, 2022 (Report #13866). The UAC was in agreement regarding recovering credit card fees passed through to the City and ratepayers. There was discussion on whether the limit should be set to a lower amount to recover more credit card fees and the level of effort that would be needed to change the credit card limit in the future. Due to the high number of utility accounts with arrearages and balances greater than $1,000, UAC agreed with the $5,000 credit card limit. System reconfiguration of the customer portal, IVR, and cashiering application may require professional services from vendors. After the configuration and programming algorithm is completed, the limit amount can be adjusted in the future.

**Environmental Impact**

The UAC’s recommendation on this change to Rule 11 does not require California Environmental Quality review since this action is not a project with a potential impact on the environment, under Public Resources Code section 21065.

City needs to be clear on whether it will impose the fee or not, otherwise legally this is too vague. This now works as written (with deletion).

**Attachments:**

- **Attachment7.a:** Attachment A: Rule and Regulation 11 (billing, adjustments and payment of bills)
- **Attachment7.b:** Attachment B: REDLINED Rule and Regulation 11 (billing, adjustments and payment of bills)
- **Attachment7.c:** Attachment C: Resolution
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

RULE AND REGULATION 11

A. BILLING UNITS

All metered billing units used for billing purposes shall be determined to the nearest whole unit. Such units may include, kW, kWh, kVA, kVar, hp, Therms, and/or ccf.

B. PAYMENT OF BILLS

CPAU issues bills to its Customers on a regular interval. Bills shall be deemed received upon physical or electronic delivery to Customer, or three calendar days following the deposit of the bill in the United States Mail to the Customer’s billing address. Bills for CPAU Services are due and payable 20 calendar days following issuance of the bill statement. Bills unpaid after the 20 day period are considered delinquent (“past due”). If a Customer’s payment is not received by CPAU after 25 days of bill issuance, the outstanding balance will be assessed a late payment Charge.

For the convenience of Customers there are a number of ways to pay CPAU bills:

1. By enclosing the bill stub and check and mailing to: CPAU, P.O. Box 10097, Palo Alto, CA 94303-0897.

2. By enrolling in auto-pay bank draft. Payments will be drafted from a Customer’s designated checking or saving account and automatically applied to the Customer’s Utility Account for each current Billing Period. Customers may enroll by calling Utilities Customer Service at 650-329-2161 or by signing up through the “MyCPAU” on-line portal at https://mycpau.cityofpaloalto.org/portal/.

3. By establishing automated clearing house and/or wire transfer payments. To do this, Customers may call Utilities Customer Service at 650-329-2161.

4. By paying in person at the Civic Center, Revenue Collections or the Utilities Customer Service Business counter, Ground Floor, 250 Hamilton Avenue, Palo Alto between the hours of 8:00 a.m. and 4:30 p.m.
   a. Credit card payments are accepted at both Revenue Collections and the Utilities Customer Service Business counter. Effective March 1, 2022, Customers are limited to a maximum credit card payment of $5,000 per account, per monthly invoice, without incurring additional cost recovery fees. Customers may call Utilities Customer Service at 650-329-2161 for a current list of acceptable credit cards.
   b. Effective March 1, 2022, credit card payments over the $5,000 limit listed in 4(a)
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

RULE AND REGULATION 11

Customers will be assessed a cost recovery fee of up to 2.7 percent\(^1\) of the amount over $5,000, to recover the merchant fees imposed upon CPAU for these payments. Customers can pay delinquent bills with a credit card by phone by calling the Utilities Customer Service Center during business hours.

5. By depositing the payment in the walk-up Night Depository Box in the front of the City Hall building on the Civic Center Plaza, or at the drive-up Night Depository Box in the Civic Center Garage, on “A” Level.

6. By paying online through the “MyCPAU” on-line portal, accessible from the Utilities’ website at https://www.cityofpaloalto.org/Departments/Utilities. Payment through the “MyCPAU” on-line portal may be made by credit card or by bank draft.

7. By enrolling at a financial institution or service company that can provide electronic payments to CPAU on behalf of the Customer.

8. By completing a “Revert to Owner (RTO) Agreement” in order to maintain Utilities Service to units during the interim period between tenants (this option is available to Customers who are property managers and landlords).

C. BUDGET BILLING PAYMENT PROGRAM

The Budget Billing Payment Program establishes equalized monthly payments and is available to all Residential Customers who qualify as set forth below:

1. Customers may join the Budget Billing Payment Program at any time providing the Customer Account balance is zero and the Customer has not been previously removed from the Budget Billing Program for non-payment.

2. A Customer electing to utilize the program shall agree to make monthly payments based on CPAU’s forward estimate of the Customers’ Charges for the subsequent twelve-month period.

3. CPAU does not guarantee that the total actual Charges will not exceed, or be less than, its original estimate. Customers should review their Account on an ongoing basis and request

\(^1\) Utilities-related credit card processing fees range between 0.5% and 2.7% of the payment amount, depending on the type of credit card used by the Customer.
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

RULE AND REGULATION 11

changes to the budget billing amount in response to changes in their household usage. CPAU may require that Customers pay a revised monthly amount as a condition to continuing participation in the plan, if CPAU determines that substantial changes in Customer usage patterns or consumption has occurred.

CPAU will perform an annual true-up on Customer Budget Billing Accounts every twelve months. This will result in either a Customer credit for CPAU over-collection or an outstanding balance due from the Customer for under-collection by CPAU during the prior twelve months.

D. DISCONTINUANCE OF BUDGET BILLING

The Customer’s Budget Billing Payment Program shall remain in effect, subject to review of the monthly payment amount, and shall terminate when:

1. The Customer notifies CPAU to terminate participation in the Budget Billing Program;
2. CPAU notifies the Customer of the termination of its Budget Billing Payment Program;
3. The Customer no longer takes Service at the Premises; or
4. The Customer owes an amount of two or more monthly payments. However, if the Customer eliminates the delinquency, removal from the program will not occur.

Upon termination of either Utilities Service or participation in the Budget Billing Payment Program, any amount owed by the Customer for actual Charges shall immediately become due and payable or any amount due to the Customer shall be refunded or credited.

E. INSUFFICIENT FUNDS FOR PAYMENT

1. A Service Charge will be made and collected by the City of Palo Alto for each check returned by a bank to CPAU for the reason of insufficient funds in accordance with Rate Schedule C-1.
2. Unsuccessful bank drafts due to insufficient funds will be subject to late payment fees in accordance with Rate Schedule C-1.

F. PRORATION OF BILLS

1. Bills for Utilities Services will be prepared for each Billing Period in accordance with the applicable Rate Schedules or CPAU contract applicable to the Premises served.
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

RULE AND REGULATION 11

2. Proration is intended to produce a uniform average unit cost for the commodity regardless of the number of days in the Service period. Services will be prorated if the number of actual Service days differs from the number of days in the applicable Billing Period. Electric Demand (kW) and Electric Power Factor Charges will not be prorated. Proration will not occur for those Rate Schedules that contain Meter fees, connection fees, deposits, and other miscellaneous fees.

3. If Rate Schedules change during the Billing Period, Charges will be prorated on the basis of the number of days covered by the previous Rate Schedule and the number of days covered by the new Rate Schedule.

G. DELINQUENT BILLS AND LATE PAYMENT CHARGES

1. Utilities Charges incurred in the applicable Billing Period are due and payable by the “Due Date” indicated on the front of the bill statement. Bills unpaid by the due date are delinquent and a late payment Charge will be added to the outstanding balance as specified in Rate Schedule C-1.

2. Residential and commercial Accounts having unpaid balances older than 180 days shall be subject to collection action by the City. Collection action may result in notifications to credit reporting agencies.

3. Late payment Charges may be suspended by CPAU if the Customer is withholding full or partial payment pending final resolution of disputed bill. The late payment Charge may be waived by CPAU based upon the ultimate resolution of a disputed Charge.

4. Full or partial payments towards outstanding balances will be applied to the oldest outstanding Charges. Failure to pay outstanding balances will result in late fees and termination of Service for non-payment.

5. In the event that a Customer donating to the ProjectPLEDGE Program has a delinquent bill, the late Charge percentage will not be applied to the amount of the Customer’s pledge. However, the Customer’s participation in ProjectPLEDGE will be discontinued after three consecutive Billing Periods in which the Customer has not included their pledge amount in the bill.

6. Customers whose Utility bills include payments of principal and/or interest on loans from CPAU which are secured by deeds of trust on real property shall be charged a late payment Charge when any current Utility bill includes an unpaid installment on such loan from a prior
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

RULE AND REGULATION 11

nothing in this Rule and Regulation shall be construed to alter in any way the duty of
the Customer to pay any installment on a loan from CPAU when due, or to alter the rights of
CPAU to enforce the payment of such installments.

H. DISPUTED BILLS

If bill accuracy is questioned or disputed by the Customer, Customers shall request an explanation
from CPAU within the current Billing Period or as soon as reasonably possible. After reviewing the
disputed bill, CPAU will:

1. Issue a corrected bill to the Customer or reflect the correction on the bill in a subsequent
Billing Period.

2. Determine if an amortization period (“payment arrangement”) for the Charge-in-question
shall be provided by CPAU. If a payment arrangement is offered by CPAU and agreed to by
the Customer, Utility Services will not be discontinued for nonpayment while the Customer
complies with the payment arrangement for the “past due” balance, and subsequent Utilities
bills are paid on time during the payment arrangement period.

3. Advise the Customer that the bill is correct as presented. The Customer may choose, at the
Customer’s option, to have the Meter removed for testing under the Provisions of Rule 15
“Metering” and payment of the applicable fee found in Rate Schedule C-1 “Exchange Meter
for Accuracy Test”.

I. METERED SERVICE BILLING ERRORS AND ADJUSTMENTS

Where a Customer has been undercharged or overcharged for metered Service, the date and cause of
which can be reliably established by CPAU, the retroactive billing adjustment (back bill or refund)
shall not exceed three years. The maximum bill adjustment for undercharges shall be $500 per
Account, per incident.

1. When, as a result of either a CPAU or a Customer-initiated accuracy test, an Electric or Gas
Meter is found to register more than two percent (2%) fast or a Water Meter is found to
register more than one and a half percent (1.5%) fast, CPAU will refund the Customer the
overcharge based upon the corrected Meter readings for the period the Meter was in use, or
three years, whichever is less. Any applicable late payment will be waived.

2. When, as a result of a test, a Customer’s Electric or Gas Meter is found not to register or to
register more than two percent (2%) slow, or a Water Meter is found not to register or to
register more than one and half percent (1.5%) slow, CPAU may bill the Customer for the
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

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undercharge base on an average bill. The bill will be computed based on an estimate of the
Customer’s consumption during a prior month in the same season or on the consumption in
the same period of the prior three years.

3. When, a billing or consumption problem has been investigated and verified, Utilities will
attempt to notify the Customer within 30 working days or a reasonable amount of time
depending on the complexity of the error.

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 determined and approved by the
General Manager of Utilities, or delegate, and may be waived in an amount up to $2,500 per
Customer Account, per incident, subject to the three year retroactive billing adjustment
period described above.

J. UNMETERED SERVICE BILLING ERRORS AND ADJUSTMENTS

Where a Customer has been undercharged or overcharged for unmetered Service, the date and cause
of which can be reliably established where a customer has been undercharged or overcharged, the
retroactive billing adjustment (back bill or refund) shall not exceed three years.

K. THEFT OF SERVICE

Where there is evidence that meter tampering or theft of Utility Service has occurred, CPAU will
retroactively bill, and collect any underpayment or nonpayment of Charges as well as any labor or
material costs related to investigating the theft and making any required corrections. The applicable
period to assess Charges shall commence from the date it can be reasonably established the theft
began to the date in which the underpayment was discovered and initially established. The labor and
material costs related to investigating the theft will be calculated in accordance with Utility Rate
Schedule C-1 and/or any other applicable Utility Rate schedules. All underpayments or non-
payments shall become immediately due and payable. Customers committing theft of Utility Service
may also be subject to legal action pursuant to Rule 1, California Penal Code sections 487, 496, 498,
591, 592, 593 and California Civil Code sections 1882 through 1882.6.

Customers billed for theft of service can dispute the charges by following the process described in
Rule and Regulation 11.H. If that process does not resolve the matter, customers billed for theft of
service may, within thirty (30) calendar days, request (by telephone, in writing, or in person) an
administrative hearing. If a hearing is requested, the city manager or his designee shall schedule a
date and time for said hearing as soon as possible after the request is filed, but no later than ten (10)
business days after the filing of such request for hearing.
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

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At the hearing, the customer billed for theft of service may offer evidence in person or in the form of a written statement, setting forth the reasons why the customer believes the determination of theft is incorrect. Utilities personnel shall also be allowed to offer whatever evidence they may have as to why they have established the customer engaged in utilities theft. The city manager or his designee shall make a determination as to whether the customer is liable for the charges for theft of service.

L. WATER LEAK CREDITS

The General Manager of Utilities, or delegate, may approve Water leak adjustments for Customer’s Water and Wastewater Accounts (when Wastewater charges are based on Water consumption) under the following conditions:

1. Customers having higher-than-average Water consumption for a particular billing period due to leaks may request a Water and/or Wastewater Leak bill adjustment, as applicable.
2. Applications for Water and Wastewater leak bill adjustments must be submitted to the Utilities Department within 60 days from the bill’s due date, for the bill covering the period in which the higher-than-average Water consumption occurred.
3. Customers are restricted to one Water and/or Wastewater leak billing adjustment in each 36-month period.
4. Higher-than-average Water consumption is defined as the volume of water greater than 100% of the Customer’s normal consumption compared to the Customer’s historical consumption over the prior three years, calculated by CPAU using prior averages for the relevant billing period(s).
5. Leaking systems must be repaired before the Customer receives a Water or Wastewater leak bill adjustment, to ensure future bills are not impacted by the same leak. Shutting off the source of the leak is not considered a repair. Undetermined or general high water consumption is not eligible for adjustment.
6. Water leak bill adjustments will be applied to Customer bills based on the higher-than-average water volumes calculated by CPAU. Water leak bill adjustments will be applied to 50% of the calculated higher than average water volume, to a limit of $2,500, using the Tier 1 Commodity Rate cost of the appropriate residential or commercial Water Rate Schedule.
7. Wastewater bill adjustments related to Water leaks will be made based upon the adjusted Water volume, and are not included in the $2,500 Water leak bill adjustment limit.
8. Utility User Tax (UUT) billing adjustments related to Water leaks will be made based upon the adjusted Water volume and are not included in the $2,500 Water leak bill adjustment limit.
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

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9. Administrative decisions regarding Water and Wastewater leak bill adjustments, including eligibility, volume calculations, and adjustment costs will be made by the General Manager of Utilities, or delegate, and are final.

M. REFUSE BILLING ERRORS, DISPUTES AND ADJUSTMENTS

1. Adjustments to the Refuse bill shall be requested to the City’s Collector. Customers with adjustments unresolved by the City’s Collector, may dispute their claim with the City’s Public Works Department, Refuse. Billing adjustments will be resolved by following the City’s Rules and Regulations, Chapter 5.20 of the Palo Alto Municipal Code and specific regulations promulgated by the City Manager pursuant to the authority established in Chapter 5.20.

2. When an error in billing has occurred, the date and cause of which can be reliably established where a Customer has been undercharged or overcharged, the retroactive billing adjustment shall not exceed three years.

(END)
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

RULE AND REGULATION 11

A. BILLING UNITS

All metered billing units used for billing purposes shall be determined to the nearest whole unit. Such units may include, kW, kWh, kVA, kVar, hp, Therms, and/or ccf.

B. PAYMENT OF BILLS

CPAU issues bills to its Customers on a regular interval. Bills shall be deemed received upon physical or electronic delivery to Customer, or three calendar days following the deposit of the bill in the United States Mail to the Customer’s billing address. Bills for CPAU Services are due and payable 20 calendar days following issuance of the bill statement. Bills unpaid after the 20 day period are considered delinquent (“past due”). If a Customer’s payment is not received by CPAU after 25 days of bill issuance, the outstanding balance will be assessed a late payment Charge.

For the convenience of Customers there are a number of ways to pay CPAU bills:

1. By enclosing the bill stub and check and mailing to: CPAU, P.O. Box 10097, Palo Alto, CA 94303-0897.

2. By enrolling in the Utilities Bank Draft Program/auto-pay bank draft. Payments will be drafted from a Customer’s designated checking or saving account and automatically applied to the Customer’s Utility Account for each current Billing Period. Customers may enroll by calling Utilities Customer Service at 650-329-2161 or by signing up through the “MyCPAU” on-line portal at https://mycpau.cityofpaloalto.org/portal/.

3. By establishing enrolling through automated clearing house and/or wire transfer payments. To do this, Customers may contact Utilities Customer Service at 650-329-2161.

4. By paying in person at the Civic Center, Revenue Collections, 1st or the Utilities Customer Service Business counter, Ground Floor, 250 Hamilton Avenue, Palo Alto between the hours of 8:00 a.m. and 4:30 p.m. The City offices are closed on alternate Fridays. Customers should call 650-329-2317 to ensure the office is open.

   a. Credit card payments are accepted at both Revenue Collections and the Utilities Customer Service Business counter. Effective March 1, 2022, Customers are limited to make a maximum credit card payment of $5,000 per account, per monthly invoice, without incurring additional cost recovery fees. Customers should call Utilities Customer Service at 650-329-2161 for a current list of acceptable credit cards are accepted.

   b. Effective March 1, 2022, credit card payments over the $5,000 limit listed in 4(a)
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

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Utilities-related credit card processing fees range between 0.5% and 2.7% of the payment amount, depending on the type of credit card used by the Customer.

will be assessed a cost recovery fee of up to 2.7 percent of the amount due over $5,000, to recover the merchant fees imposed upon CPAU for these payments.

c. Customers can pay delinquent bills with a credit card by phone by calling the Utilities Customer Service Center during business hours.

45. By depositing the payment in the walk-up Night Depository Box in the front of the City Hall building on the Civic Center Plaza, or at the drive-up Night Depository Box in the Civic Center Garage, on “A” Level.

6. By paying online through the “My Utilities Account” application MyCPAU on-line portal, accessible from the Utilities website at https://www.cityofpaloalto.org/Departments/Utilities. Payment through the “My Utilities Account” MyCPAU on-line portal may be made by credit card or by bank draft.

7. By enrolling at a financial institution or service company that can provide electronic payments to CPAU on behalf of the Customer.

By Property Managers: 8. By completing a “Revert to Owner (RTO) Agreement” in order to maintain utility service to units during the interim period between tenants. (this option is available to Customers who are property managers and landlords).

C. BUDGET BILLING PAYMENT PROGRAM

The Budget Billing Payment Program establishes equalized monthly payments and is available to all Residential Customers who qualify as set forth below:

1. Customers may join the Budget Billing Payment Program at any time providing the Customer Account balance is zero and the Customer has not been previously removed from the Budget Billing Program for non-payment.

2. A Customer electing to utilize the program shall agree to make monthly payments based on CPAU’s forward estimate of the Customers’ Charges for the subsequent twelve-month period.

3. CPAU does not guarantee that the total actual Charges will not exceed, or be less than, its
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

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Customers should review their Account on an ongoing basis and request changes to the budget billing amount in response to changes in their household usage. CPAU may require that Customers pay a revised monthly amount as a condition to continuing participation in the plan, if CPAU determines that substantial changes in Customer usage patterns or consumption has occurred.

4. CPAU will perform an annual true-up on Customer Budget Billing Accounts every twelve months. This will result in either a Customer credit for CPAU over-collection or an outstanding balance due from the Customer for under-collection by CPAU during the prior twelve months.

D. DISCONTINUANCE OF BUDGET BILLING

The Customer’s Budget Billing Payment Program shall remain in effect, subject to review of the monthly payment amount, and shall terminate when:

1. The Customer notifies CPAU to terminate participation in the Budget Billing Program;
2. CPAU notifies the Customer of the termination of its Budget Billing Payment Program;
3. The Customer no longer takes Service at the Premises; or
4. The Customer owes an amount of two or more monthly payments. However, if the Customer eliminates the delinquency, removal from the program will not occur.

Upon termination of either Utility Service or participation in the Budget Billing Payment Program, any amount owed by the Customer for actual Charges shall immediately become due and payable or any amount due to the Customer shall be refunded or credited.

E. INSUFFICIENT FUNDS FOR PAYMENT

1. A Service Charge will be made and collected by the City of Palo Alto for each check returned by a bank to CPAU for the reason of insufficient funds in accordance with Rate Schedule C-1.
2. Unsuccessful Bank Drafts due to insufficient funds will be subject to late payment fees in accordance with Rate Schedule C-1.

F. PRORATION OF BILLS
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

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1. Bills for Utilities Services will be prepared for each Billing Period in accordance with the applicable Rate Schedules or CPAU contract applicable to the Premises served.

2. Proration is intended to produce a uniform average unit cost for the commodity regardless of the number of days in the Service period. Services will be prorated if the number of actual Service days differs from the number of days in the applicable Billing Period. Electric Demand (kW) and Electric Power Factor Charges will not be prorated. Proration will not occur for those Rate Schedules that contain Meter fees, connection fees, deposits, and other miscellaneous fees.

3. If Rate Schedules change during the Billing Period, Charges will be prorated on the basis of the number of days covered by the previous Rate Schedule and the number of days covered by the new Rate Schedule.

G. DELINQUENT BILLS AND LATE PAYMENT CHARGES

1. Utilities Charges incurred in the applicable Billing Period are due and payable by the “Due Date” indicated on the front of the bill statement. Bills unpaid by the due date are delinquent and a late payment Charge will be added to the outstanding balance as specified in Rate Schedule C-1.

2. Residential and commercial Accounts having unpaid balances older than 180 days shall be subject to collection action by the City. Collection action may result in notifications to credit reporting agencies.

3. Late payment Charges may be suspended by CPAU if the Customer is withholding full or partial payment pending final resolution of disputed bill. The late payment Charge may be waived by CPAU based upon the ultimate resolution of a disputed Charge.

4. Full or partial payments towards outstanding balances will be applied to the oldest outstanding Charges. Failure to pay outstanding balances will result in late fees and termination of Service for non-payment.

5. In the event that a Customer donating to the ProjectPLEDGE Program has a delinquent bill, the late Charge percentage will not be applied to the amount of the Customer’s pledge. However, the Customer’s participation in ProjectPLEDGE will be discontinued after three consecutive Billing Periods in which the Customer has not included their pledge amount in the bill.
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

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6. Customers whose Utility bills include payments of principal and/or interest on loans from CPAU which are secured by deeds of trust on real property shall be charged a late payment Charge when any current Utility bill includes an unpaid installment on such loan from a prior bill. Nothing in this Rule and Regulation shall be construed to alter in any way the duty of the Customer to pay any installment on a loan from CPAU when due, or to alter the rights of CPAU to enforce the payment of such installments.

H. DISPUTED BILLS

If bill accuracy is questioned or disputed by the Customer, Customers shall request an explanation from CPAU within the current Billing Period or as soon as reasonably possible. After reviewing the disputed bill, CPAU will:

1. Issue a corrected bill to the Customer or reflect the correction on the bill in a subsequent Billing Period.

2. Determine if an amortization period (“payment arrangement”) for the Charge-in-question shall be provided by CPAU. If a payment arrangement is offered by CPAU and agreed to by the Customer, Utility Services will not be discontinued for nonpayment while the Customer complies with the payment arrangement for the “past due” balance, and subsequent Utilities bills are paid on time during the payment arrangement period.

3. Advise the Customer that the bill is correct as presented. The Customer may choose, at the Customer’s option, to have the Meter removed for testing under the Provisions of Rule 15 “Metering” and payment of the applicable fee found in Rate Schedule C-1 “Exchange Meter for Accuracy Test”.

I. METERED SERVICE BILLING ERRORS AND ADJUSTMENTS

Where a Customer has been undercharged or overcharged for metered Service, the date and cause of which can be reliably established by CPAU, the retroactive billing adjustment (back bill or refund) shall not exceed three years. The maximum bill adjustment for undercharges shall be $500 per Account, per incident.

1. When, as a result of either a CPAU or a Customer-initiated accuracy test, an Electric or Gas Meter is found to register more than two percent (2%) fast or a Water Meter is found to register more than one and a half percent (1.5%) fast, CPAU will refund the Customer the overcharge based upon the corrected Meter readings for the period the Meter was in use, or three years, whichever is less. Any applicable late payment will be waived.
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

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2. When, as a result of a test, a Customer’s Electric or Gas Meter is found not to register or to register more than two percent (2%) slow, or a Water Meter is found not to register or to register more than one and half percent (1.5%) slow, CPAU may bill the Customer for the undercharge base on an average bill. The bill will be computed based on an estimate of the Customer’s consumption during a prior month in the same season or on the consumption in the same period of the prior three years.

3. When, a billing or consumption problem has been investigated and verified, Utilities will attempt to notify the Customer within 30 working days or a reasonable amount of time depending on the complexity of the error.

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 determined and approved by the General Manager of Utilities, or delegate, and may be waived in an amount up to $2,500 per Customer Account, per incident, subject to the three year retroactive billing adjustment period described above.

J. UNMETERED SERVICE BILLING ERRORS AND ADJUSTMENTS

Where a Customer has been undercharged or overcharged for unmetered Service, the date and cause of which can be reliably established where a customer has been undercharged or overcharged, the retroactive billing adjustment (back bill or refund) shall not exceed three years.

K. THEFT OF SERVICE

Where there is evidence that meter tampering or theft of Utility Service has occurred, CPAU will retroactively bill, and collect any underpayment or nonpayment of Charges as well as any labor or material costs related to investigating the theft and making any required corrections. The applicable period to assess Charges shall commence from the date it can be reasonably established the theft began to the date in which the underpayment was discovered and initially established. The labor and material costs related to investigating the theft will be calculated in accordance with Utility Rate Schedule C-1 and/or any other applicable Utility Rate schedules. All underpayments or non-payments shall become immediately due and payable. Customers committing theft of Utility Service may also be subject to legal action pursuant to Rule 1, California Penal Code sections 487, 496, 498, 591, 592, 593 and California Civil Code sections 1882 through 1882.6.

Customers billed for theft of service can dispute the charges by following the process described in Rule and Regulation 11.H. If that process does not resolve the matter, customers billed for theft of service may, within thirty (30) calendar days, request (by telephone, in writing, or in person) an
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

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administrative hearing. If a hearing is requested, the city manager or his designee shall schedule a
date and time for said hearing as soon as possible after the request is filed, but no later than ten (10)
business days after the filing of such request for hearing.

At the hearing, the customer billed for theft of service may offer evidence in person or in the form of
a written statement, setting forth the reasons why the customer believes the determination of theft is
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why they have established the customer engaged in utilities theft. The city manager or his designee
shall make a determination as to whether the customer is liable for the charges for theft of service.

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The General Manager of Utilities, or delegate, may approve Water leak adjustments for
Customer’s Water and Wastewater Accounts (when Wastewater charges are based on Water
consumption) under the following conditions:

1. Customers having higher-than-average Water consumption for a particular billing
   period due to leaks may request a Water and/or Wastewater Leak bill adjustment, as
   applicable.
2. Applications for Water and Wastewater leak bill adjustments must be submitted to the
   Utilities Department within 60 days from the bill’s due date, for the bill covering the
   period in which the higher-than-average Water consumption occurred.
3. Customers are restricted to one Water and/or Wastewater leak billing adjustment in each
   36-month period.
4. Higher-than-average Water consumption is defined as the volume of water greater than
   100% of the Customer’s normal consumption compared to the Customer’s historical
   consumption over the prior three years, calculated by CPAU using prior averages for the
   relevant billing period(s).
5. Leaking systems must be repaired before the Customer receives a Water or
   Wastewater leak bill adjustment, to ensure future bills are not impacted by the same leak.
   Shutting off the source of the leak is not considered a repair. Undetermined or general
   high water consumption is not eligible for adjustment.
6. Water leak bill adjustments will be applied to Customer bills based on the higher-than-
   average water volumes calculated by CPAU. Water leak bill adjustments will be applied
   to 50% of the calculated higher than average water volume, to a limit of $2,500, using the
   Tier 1 Commodity Rate cost of the appropriate residential or commercial Water Rate
   Schedule.
7. Wastewater bill adjustments related to Water leaks will be made based upon the adjusted
   Water volume, and are not included in the $2,500 Water leak bill adjustment limit.
BILLING, ADJUSTMENTS AND PAYMENT OF BILLS

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8. Utility User Tax (UUT) billing adjustments related to Water leaks will be made based upon the adjusted Water volume and are not included in the $2,500 Water leak bill adjustment limit.

9. Administrative decisions regarding Water and Wastewater leak bill adjustments, including eligibility, volume calculations, and adjustment costs will be made by the General Manager of Utilities, or delegate, and are final.

M. REFUSE BILLING ERRORS, DISPUTES AND ADJUSTMENTS

1. Adjustments to the Refuse bill shall be requested to the City’s Collector. Customers with adjustments unresolved by the City’s Collector, may dispute their claim with the City’s Public Works Department, Refuse. Billing adjustments will be resolved by following the City’s Rules and Regulations, Chapter 5.20 of the Palo Alto Municipal Code and specific regulations promulgated by the City Manager pursuant to the authority established in Chapter 5.20.

2. When an error in billing has occurred, the date and cause of which can be reliably established where a Customer has been undercharged or overcharged, the retroactive billing adjustment shall not exceed three years.

(END)
Resolution No. _____
Resolution of the Council of the City of Palo Alto Amending Utilities Rule and Regulation 11 (Billing, Adjustments and Payment of Bills)

RECITALS

A. In 2006, the City of Palo Alto created a credit card policy (ASD 1-47) to establish guidelines on the acceptance of credit card payments. The City did not charge a convenience fee for credit card payments. To limit credit card processing fees absorbed by the City of Palo Alto Utilities (CPAU), CPAU did not accept credit card payments of more than $10,000 per month from a single account.

B. The $10,000 payment limit was lifted in 2013, in order to provide more payment flexibility to CPAU’s large commercial customers.

C. Since then, more customers have been paying their utility bills by credit card. In addition, credit card companies have been increasing their credit card charges. Credit card fees for utility payments have increased by 141% in the past five years from $472,217 in FY 2017 to $1,139,418 in FY 2021.

D. In November 2021, CPAU received 9,200 credit card payments ranging from $1 to $75,000. Of the 9,200 credit card payments; 9,100, or 98.9%, of the payments were less than $5,000.

E. Staff recommends amending Utility Rule and Regulation 11 to set $5,000 as the maximum amount customers may charge when paying their utility bill via credit card without an additional cost recovery fee of up to 2.7% of the amount charged over $5,000. With the new maximum fee-free credit card amount of $5,000, staff will contact approximately 100 utility customers and recommend they switch to an alternative payment method, which would potentially reduce the total credit card fee amount charged to the City by 50%, or $550,000.

NOW, THEREFORE, the Council of the City of Palo Alto RESOLVES as follows:

SECTION 1. Pursuant to Section 12.20.010 of the Palo Alto Municipal Code, Utility Rule and Regulation 11 (Billing, Adjustments and Payment of Bills) is hereby amended as attached and incorporated. Utility Rule and Regulation 11, as amended, shall become effective March 1, 2022.
SECTION 2. The Council finds that the adoption of this resolution does not meet the definition of a project under Public Resources Code Section 21065 or CEQA Guidelines Section 15378(b)(2), thus, no environmental assessment under the California Environmental Quality Act is required.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:                     APPROVED:

City Clerk                  Mayor

APPROVED AS TO FORM:

Assistant City Attorney     Director of Utilities

City Manager
Meeting Date: 2/28/2022

Title: Approval of a Five-Year Contract C22181932 with Sierra Traffic Markings, Inc in the Amount of $850,000 to Provide On-Call Minor Roadway Improvements

From: City Manager

Lead Department: Transportation Department

Recommendation
Staff recommends that the City Council authorize the City Manager or his designee to execute contract C22181932 with Sierra Traffic Markings, Inc. (Attachment A), for a period of five years in an amount not to exceed $850,000 for on-call general street services, including installing traffic and parking signs, curb painting, and other minor maintenance.

Background
The contract for On-Call General Street Services provides for minor roadway improvements identified in response to community service requests such as sign installations, roadway markings, curb paintings, and other miscellaneous safety improvements on an as-needed basis throughout the term of the contract.

Since adoption of the Palo Alto 311 service request tracking system in April 2015, the Office of Transportation has closed out more than 1,500 transportation-related service requests. These community-submitted requests include, but are not limited to, the installation of traffic control signage, curb marking/painting, parking signage, improvements to school walking and bicycling routes, new crosswalk and pedestrian crossing signage, bicycle detection symbols at traffic signals, new conflict markings in bicycle lanes, turn-lane modifications, and traffic calming on local streets.

On August 22, 2016, City Council approved a five-year contract for On-Call Traffic Safety Services (CMR 6885) to support Office of Transportation staff with tasks for various small spot improvement projects throughout the City. At that time, staff awarded a five-year contract to Sierra Traffic Markings, Inc. The existing contract ended in September 2021 and staff has extended the contract until March 2022 to ensure enough time to be able to issue a new Request For Quotation (RFQ) without any gaps in the service provided by the contractor.

Discussion
RFQ for Professional Services Contract Solicitation Process
A RFQ for the project was posted twice in PlanetBids, the City’s eProcurement platform. In the first posting, 683 vendors were notified, and the solicitation period was posted for 39 days. Staff received two proposals and decided to rebid the project with additional outreach to solicit more responses. In the second posting, 698 vendors were notified and the solicitation period was posted for 14 days and two proposals were received. The solicitation closed on November 1, 2022.

<table>
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<tr>
<th>Table 1: Summary of Request for Quotation</th>
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<tr>
<td><strong>Proposal Description</strong></td>
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<td><strong>Proposed Length of Project</strong></td>
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<td><strong>Number of Vendors Notified</strong></td>
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<td><strong>Number of Proposal Packages Downloaded</strong></td>
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<td><strong>Total Days to Respond to Proposal</strong></td>
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<td><strong>Pre-Proposal Meeting</strong></td>
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<td><strong>Pre-Proposal Meeting Date</strong></td>
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<td><strong>Number of Proposals Received</strong></td>
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<td><strong>Proposal Price Range</strong></td>
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<td><strong>Public Link to Solicitation</strong></td>
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The quotes were reviewed and resulted in a recommendation that the quote submitted by Sierra Traffic Markings, Inc. be accepted, and declared as the lowest responsive bidder. The City has verified the Sierra Traffic Markings, Inc. contractor license and has checked with their listed references and standing with the State. Sierra Traffic Markings, Inc. also has experience working in the City and is familiar with all required City Standards and Specifications, as well as the California Manual of Uniform Traffic Control Devices.

This contract is needed in order to address the work orders resulting from the community-submitted requests which include, installation of traffic control signage, curb marking/painting, parking signage, improvements to school walking and bicycling routes and traffic calming on local streets, and to avoid long delays by having to go out to bid each time, when work is needed.

**Timeline**
Upon approval of this contract, Sierra Traffic Markings, Inc. will begin to complete work orders issued by the Office of Transportation. These work orders are issued each month in packages in order to minimize mobilization costs and maximize efficiency.
**Resource Impact**
No additional funding is needed. Funding for year one of these contracts is available in the FY 2022 Adopted Capital and the FY 2022 Adopted Operating Budgets to cover the work. Funding would be drawn from the following projects and programs as they require on-call support: Safe Routes to School (PL-00026), Bicycle & Pedestrian Transportation Plan Implementation (PL-04010), Transportation & Parking Improvements (PL-12000), and Traffic Signal and Intelligent Transportation Systems (PL-05030). Funding for future fiscal years is subject to City Council approval through the annual budget process.

**Policy Implications**
The City’s *Comprehensive Plan* recommends that the City strive to accommodate all modes of travel on its street system. This contract is consistent with the following goals and policies:

Goal T-4: An efficient roadway network is provided for all users, including motor vehicles, transit vehicles, bicyclists and pedestrians

Goal T-6: A high level of safety for motorists, pedestrians, and bicyclists on Palo Alto streets

**Stakeholder Engagement**
Stakeholder engagement for this contract consisted of the RFQ and bidding process described above. Staff will conduct additional community/stakeholder engagement for any projects that result from this on-call contract.

**Environmental Review**
The work to be performed under this contract is categorically exempt under CEQA regulation 15301 as it consists of repair, maintenance, and minor alternation of existing facilities.

**Attachments:**
- Attachment8.a: Attachment A: Sierra Traffic Markings, Inc., Contract C22181932
CITY OF PALO ALTO CONTRACT NO. C22181932

GENERAL SERVICES AGREEMENT

THIS AGREEMENT made and entered into on the 28th day of February, 2022, by and between the CITY OF PALO ALTO, a California chartered municipal corporation ("CITY"), and SIERRA TRAFFIC MARKINGS, INC. (DIR#1000002783), a California corporation, located at 9725 Del Road, Suite B, Roseville, California, 95747, Telephone Number: (916) 774-9080 ("CONTRACTOR"). In consideration of their mutual covenants, the parties hereto agree as follows:

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

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

   Services will be authorized by CITY, as needed, with a Task Order assigned and approved by CITY’s Project Manager. Each Task Order shall be in substantially the same form as Exhibit A-1. Each Task Order shall designate a CITY Project Manager and shall contain a specific scope of work, a specific schedule of performance and a specific compensation amount. The total price of all Task Orders issued under this Agreement shall not exceed the amount of Compensation set forth in Section 5 of this Agreement. CONTRACTOR shall only be compensated for work performed under an authorized Task Order and CITY may elect, but is not required, to authorize work up to the maximum compensation amount set forth in Section 5.

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

   “A” - Scope of Services
   “A-1” - On-Call Task Order (Optional)
   “B” - Schedule of Performance
   “C” - Schedule of Fees
   “D” - Insurance Requirements
   “E” - Technical Requirements

   CONTRACT IS NOT COMPLETE UNLESS ALL INDICATED EXHIBITS ARE ATTACHED.
3. TERM.
   The term of this Agreement is from February 28, 2022 to February 28, 2027 inclusive, subject to the provisions of Sections R and W of the General Terms and Conditions.

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

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

   ✔ The total maximum lump sum compensation of Eight Hundred Fifty Thousand dollars ($850,000.00).

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

6. COMPENSATION DURING ADDITIONAL TERMS.

   ✔ CONTRACTOR’S compensation rates for each additional term shall be the same as the original term.

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

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

8. INVOICING. Send all invoices to CITY, Attention: Project Manager. The Project Manager is: Shahla Yazdy, Office of Transportation Department, Telephone: (650) 617-3151. Invoices shall be submitted in arrears for Services performed.
Invoices shall not be submitted more frequently than monthly. Invoices shall provide a detailed statement of Services performed during the invoice period and are subject to verification by CITY. CITY shall pay the undisputed amount of invoices within 30 days of receipt.

GENERAL TERMS AND CONDITIONS

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

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

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

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

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

F. **COMPLIANCE WITH LAWS.** CONTRACTOR shall in the performance of the Services comply with all applicable federal, state and local laws, ordinances, regulations, and orders.
G. PALO ALTO MINIMUM WAGE ORDINANCE. CONTRACTOR shall comply with all requirements of the Palo Alto Municipal Code Chapter 4.62 (Citywide Minimum Wage), as it may be amended from time to time. In particular, for any employee otherwise entitled to the State minimum wage, who performs at least two (2) hours of work in a calendar week within the geographic boundaries of the City, CONTRACTOR shall pay such employees no less than the minimum wage set forth 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, CONTRACTOR shall post notices regarding the Palo Alto Minimum Wage Ordinance in accordance with Palo Alto Municipal Code section 4.62.060.

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

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

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

K. CITY’S PROPERTY. Any reports, information, data or other material (including copyright interests) developed, collected, assembled, prepared, or caused to be prepared under this Agreement will become the property of CITY without
restriction or limitation upon their use and will not be made available to any individual or organization by CONTRACTOR or its subcontractors, if any, without the prior written approval of the City Manager.

L. AUDITS. CONTRACTOR agrees to permit CITY and its authorized representatives to audit, at any reasonable time during the term of this Agreement and for three (3) years from the date of final payment, CONTRACTOR’s records pertaining to matters covered by this Agreement. CONTRACTOR agrees to maintain accurate books and records in accordance with generally accepted accounting principles for at least three (3) following the terms of this Agreement.

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

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

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

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

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

R. TERMINATION. The City Manager may terminate this Agreement without cause by giving ten (10) days’ prior written notice thereof to CONTRACTOR. If CONTRACTOR fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, the City Manager may terminate this Agreement immediately upon written notice of termination. Upon receipt of such notice of termination, CONTRACTOR shall immediately discontinue performance. CITY shall pay CONTRACTOR for services satisfactorily performed up to the effective date of termination. If the termination is for cause, CITY may deduct from such payment the amount of actual damage, if any, sustained by CITY due to CONTRACTOR's failure to perform its material obligations under this Agreement. Upon termination, CONTRACTOR shall immediately deliver to the City Manager any and all copies of studies, sketches, drawings, computations, and other material or products, whether or not completed,
prepared by CONTRACTOR or given to CONTRACTOR, in connection with this Agreement. Such materials shall become the property of CITY.

S. ASSIGNMENTS/CHANGES. This Agreement binds the parties and their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written consent of CITY. No amendments, changes or variations of any kind are authorized without the written consent of CITY.

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

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

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

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

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

- All printed materials provided by CONTRACTOR to CITY generated from a personal computer and printer including but not limited to, proposals, quotes, invoices, reports, and public education materials, shall be double-sided and printed on a minimum of 30% or greater post-consumer content paper, unless otherwise approved by CITY’s Project Manager. Any submitted materials printed by a professional printing company shall be a minimum of 30% or greater post-consumer material and printed with vegetable based inks.

- Goods purchased by Contractor on behalf of CITY shall be purchased in accordance with CITY’s Environmental Purchasing Policy including, but not limited to, Extended Producer Responsibility requirements for products and packaging. A copy of this policy is on file at the Purchasing Division’s office.

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

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

Z. PREVAILING WAGES

Contractor is required to pay general prevailing wages as defined in Subchapter 3, Title 8 of the California Code of Regulations and Section 16000 et seq. and Section 1773.1 of the California Labor Code. Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the City Council has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of worker needed to execute the Agreement for this Project from the Director of the Department of Industrial Relations (“DIR”). Copies of these rates may be obtained at the Purchasing Division’s office of the City of Palo Alto. Contractor shall provide a copy of prevailing wage rates to any staff or subcontractor hired, and shall pay the adopted prevailing wage rates as a minimum. Contractor shall comply with the provisions of all sections, including, but not limited to, Sections 1775, 1776, 1777.5, 1782, 1810, and 1813, of the Labor Code pertaining to prevailing wages.
AA. DIR REGISTRATION. In regard to any public work construction, alteration, demolition, repair or maintenance work, CITY will not accept a bid proposal from or enter into this Agreement with CONTRACTOR without proof that CONTRACTOR and its listed subcontractors are registered with the California Department of Industrial Relations (“DIR”) to perform public work, subject to limited exceptions. City requires CONTRACTOR and its listed subcontractors to comply with the requirements of SB 854.

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

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

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

CITY requires CONTRACTOR and its listed subcontractors to comply with the requirements of Labor Code section 1776, including:

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

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

At the request of CITY, acting by its project manager, CONTRACTOR and its listed subcontractors shall make the certified payroll records available for inspection or furnished upon request to the project manager within ten (10) days of receipt of CITY’s request.
[For state- and federally-funded projects] CITY requests CONTRACTOR and its listed subcontractors to submit the certified payroll records to the project manager at the end of each week during the Project.

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

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

BB. CONTRACT TERMS. All unchecked boxes do not apply to this Agreement. In the case of any conflict between the terms of this Agreement and the exhibits hereto or CONTRACTOR’s proposal (if any), the Agreement shall control. In the case of any conflict between the exhibits hereto and CONTRACTOR’s proposal, the exhibits shall control.

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

CITY OF PALO ALTO

_____________________________  By: ________________________________________
City Manager or Designee

Name: _____________________________________
Title: ______________________________________
Telephone: _________________________________

Approved as to form:

_____________________________  By: ________________________________________
City Attorney or Designee

Name: _____________________________________
Title: ______________________________________
Telephone: _________________________________

SIERRA TRAFFIC MARKINGS, INC.

By: 

950A55ME14E74A39.
Ron Johnson

Name: ___________________ President/CEO
Title: ___________________
Telephone: 916-774-9080

By: 

997EC74EC7D473
Amanda Davis

Name: ___________________ Controller
Title: ___________________
Telephone: 916-774-9080
EXHIBIT A

SCOPE OF SERVICES

Consistent with Section 1 of this Agreement, the City shall negotiate with the CONTRACTOR at the start of each month, the amount of work to be completed based on city-furnished "work order" type improvement plans. The CONTRACTOR shall provide cost estimates on the work orders. The City shall review cost estimates and if approved provide written authorization to the CONTRACTOR to proceed. The CONTRACTOR shall complete the work during the issued month or time specified on the written authorization.

(Task A) Standard Highway Signs- New Sign Installation onto Existing Sign Post
The CONTRACTOR shall install a standard highway sign(s) onto existing sign post and/or an existing Caltrans Type 15 Pole Standard. Existing City sign posts might require the addition of a riser onto the existing sign post to accommodate new sign(s). Addition of a riser shall include the threading of the existing sign post, installation of a coupling bracket, and pole extension to support the new sign. The CONTRACTOR shall be responsible for providing a cost to include all labor and material, including all necessary sign bracketing and banding material.

(Task B) Standard Highway Signs- New Sign & New Sign Post Installation
The CONTRACTOR shall install a standard highway sign(s) onto CONTRACTOR furnished and installed sign post. Installation of a new sign post shall include coordination with U.S.A. underground, the use of a core drill with a 6-inch bit to cut through existing concrete, installation of a new 2-inch (I.D.) sign post, and the use of a portland cement to secure post and finishing to grade. Signs shall be installed a minimum of 7-ft from bottom of new sign to the sidewalk or existing grade. New sign post installations shall not use any pole risers to accommodate the new sign installation(s). The CONTRACTOR shall be responsible for providing a cost to include all labor and material, including all required sign bracketing material. Upon completion of the pole installation, CONTRACTOR shall remove all USA or other type markings from the roadway, curb or sidewalk.

(Task C) Curb Painting
The CONTRACTOR shall paint existing street curb as directed by the City. The City shall mark the beginning and ending limits of paint in the field using white chalk paint. The CONTRACTOR shall paint red, green, yellow, blue, or white curb paint as directed by the City. Prior to painting curb, the contractor shall remove any debris or vegetation that may conflict with the painting of the curb. Paint material used for street curbs shall be Ennis Paint Company - Standard Dry paint, or approved equal, that meets Federal specification TTP-1952B. CONTRACTOR shall be responsible for providing a cost per linear foot (LF) of curb paint, to include all labor and material, and adequate traffic control during installation and curing.

(Task D) Curb Painting Removal
The CONTRACTOR shall remove existing curb painting as directed by the City. The City shall mark the beginning and ending limits of the area where paint is to be removed. The CONTRACTOR shall not use any unapproved chemicals or solvents; if used the CONTRACTOR shall provide a reclamation system to capture spillage, preventing contaminates from flowing into the sewer or storm drain system. The City prefers a wet or dry vacuum type system. CONTRACTOR shall provide a cost per linear foot (LF) including all labor and material for curb paint removal and adequate traffic control during the removal process.
(Task E) Traffic Lane Lines - Grinding Removal
The CONTRACTOR shall grind existing center lane lines or traffic lane lines as directed by the City. The City shall mark in the field the beginning and ending limits of grinding operations. CONTRACTOR shall take extra caution not to damage the pavement. The CONTRACTOR shall be responsible for furnishing, installing, and maintaining adequate traffic control during Grinding operations. Paint removers or grinding devices may be used for the removal of existing paint or thermoplastic material and require field collection and disposal. Other methods, such as use of an Eraser, are also acceptable. The CONTRACTOR shall provide a cost per LF for providing all labor and material, and adequate traffic control during the removal process.

(Task F) Roadway Stencils/Thermoplastic Pavement Markings
The CONTRACTOR shall install, using thermoplastic roadway material, Caltrans standard pavement arrows and legends including Type IV turn arrows, Type VI lane drop arrows, Bike Lane symbols, Bicycle Loop Detector symbols, Bike Sharrows, and Numerals. CONTRACTOR shall check with City to make sure stencils used match existing stencils used throughout the City. Prior to installation the CONTRACTOR shall clean the roadway using a mechanical blower and apply primer to the roadway to ensure proper adhesion to the pavement. The CONTRACTOR shall be responsible for providing a cost per square foot (SF) to include all labor and material, and adequate traffic control during installation. Caltrans standard plans will be used to determine actual square footages for each roadway stencil marker.

(Task G) 12-inch White and/or Yellow Thermoplastic Limit Line or Crosswalk Lines
The CONTRACTOR shall cat-track for review and approval by the City the location of 12-inch white/yellow thermoplastic limit line or crosswalk lines based off of City work-order details. Prior to installation the CONTRACTOR shall clean the roadway using a mechanical blower and apply primer to the roadway to ensure proper adhesion to the pavement. After written approval from the City on the location of cat-track markings, the CONTRACTOR shall install the 12-inch white/yellow thermoplastic limit lines or crosswalk lines. The CONTRACTOR shall be responsible for providing a cost per LF for all material, labor and adequate traffic control during installation.

(Task H) Green Thermoplastic Bike Lane Material
CONTRACTOR shall install green thermoplastic material bike lanes, using Ennis Flint green thermoplastic material. CONTRACTOR may also propose other materials for City review and approval. CONTRACTOR shall apply materials as per manufacturers recommended direction for quality placement. CONTRACTOR shall be responsible for providing a cost per SF for all required material and labor and adequate traffic control during installation.

(Task I) Labor Rates
CONTRACTOR to provide labor rate, per hour, for miscellaneous work such as striping, curb painting, and other work, etc.

(Task J) Traffic Control
CONTRACTOR shall provide a cost per hour to include for 1 to 2 men, all flagging, equipment and all required signs/ set up requirements as per the Caltrans MUTCD traffic control set up.

ADDITIONAL SERVICES
The need for additional types of General Street services may be required during the term of this contract for work that’s not listed in the line items above. Hourly labor rates, materials and traffic control as stated for Tasks I and J shall be applied.
EXHIBIT “A-1”  
GENERAL SERVICES TASK ORDER

Contractor hereby agrees to perform the work 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 the Agreement by this reference. The Contractor shall furnish the necessary facilities, professional, technical and supporting personnel required by this Task Order as described below.

CONTRACT NO. ISSUE DATE
Purchase Requisition No.

1A. MASTER AGREEMENT NUMBER
1B. TASK ORDER NO.
2. CONTRACTOR
3. PERIOD OF PERFORMANCE: START: COMPLETION:
4. TOTAL TASK ORDER PRICE: $BALANCE REMAINING IN MASTER AGREEMENT $______________
5. BUDGET CODE: ________________ COST CENTER ________________ COST ELEMENT ________________ WBS/CIP PHASE ________________
6. CITY PROJECT MANAGER’S NAME/DEPARTMENT ________________
7. DESCRIPTION OF SCOPE OF SERVICES
   MUST INCLUDE:
   ▪ WORK TO BE PERFORMED
   ▪ SCHEDULE OF WORK
   ▪ BASIS FOR PAYMENT & FEE SCHEDULE
   ▪ DELIVERABLES
   ▪ REIMBURSABLES (with “not to exceed” cost)
8. ATTACHMENTS: A: Scope of Services B: ________________

I hereby authorize the performance of the work described above 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 Contractor.

APPROVED: APPROVED:
CITY OF PALO ALTO COMPANY NAME: ________________
BY: ____________________________ BY: ____________________________
Name ____________________________ Name ____________________________
Title ____________________________ Title ____________________________
Date ____________________________ Date ____________________________

City of Palo Alto General Services Agreement 13 Rev. March 29, 2018
EXHIBIT B
SCHEDULE OF PERFORMANCE

Schedule of Performance shall conform to the Task Orders issued under this Agreement.
EXHIBIT C
SCHEDULE OF FEES

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

(Task A) Standard Highway Signs- New Sign Installation onto Existing Sign Post

Lump Sum Cost that includes all labor and materials costs for the installation of one 24”x30” standard highway sign onto an existing standard 2-inch galvanized sign post or Caltrans Type 15 pole.
$200.00 each

Lump Sum Cost that includes all labor and materials costs for the installation of one 24”x30” double – sided standard highway sign onto an existing standard 2-inch galvanized sign post or Caltrans Type 15 pole.
$290.00 each

Lump Sum Cost to remove any size sign from an existing pole. Sign shall be returned to the City Public Works Department.
$100.00 each

(Task B) Standard Highway Signs- New Sign & New Sign Post Installation

Lump Sum Cost that includes all labor and materials costs for the installation of one new standard 2-inch (I.D.) galvanized sign post and one 24”x30” standard highway sign.
$400.00 each

Lump Sum Cost that includes all labor and materials costs for the installation of one new standard 2-inch (I.D.) galvanized sign post and one double - sided 24”x30” standard highway sign.
$490.00 each

Lump Sum Cost to remove sign(s) and pole. Sign/pole shall be returned to City Public Works Department.
$200.00 each

(Task C) Curb Painting

Lump Sum Cost that includes all labor and materials, per linear foot, for the installation of street curb paint from 0 to 100 linear feet.
$10.00/LF

Lump Sum Cost that includes all labor and materials, per linear foot, for the installation of street curb paint for quantities of 100 linear feet and higher.
$3.00/LF
(Task D) Curb Painting Removal
Lump Sum Cost that includes all labor and materials, per linear foot, for the removal of street curb paint.
$25.00/LF

(Task E) Traffic Lane Lines- Grinding Removal
Lump Sum Cost that includes all labor and materials, per linear foot, for the removal of traffic lane lines.
$2.00/LF

(Task F) Roadway Stencils/Thermoplastic Pavement Markings
Lump Sum Cost that includes all labor and material, per square foot, for the installation of roadway stencils.
$10.00/SF

(Task G) 12-inch White and/or Yellow Thermoplastic Limit Line or Crosswalk Lines
Lump Sum Cost that includes all labor and material, per-linear cost for the installation of 12-inch white thermoplastic limit lines or crosswalk lines. (Note: When 24-inch limit lines or crosswalk lines are requested by the City, the 12-inch limit line per linear foot cost shall be used as a base cost.)
$6.00/LF

(Task H) Green Thermoplastic Bike Lane Material
Lump Sum Cost that includes all labor and material, per square ft cost for the installation of Ennis Flint Thermoplastic Green Bike lane material.
$12.00/SF

(Task I) Labor Rates
Hourly Cost for labor rate for striping, painting, and other miscellaneous work etc.
$140.00/hr

(Task J) Traffic Control
Hourly Cost for traffic control services
$140.00/hr
**EXHIBIT D**

**INSURANCE REQUIREMENTS**

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

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

<table>
<thead>
<tr>
<th>REQUIRED</th>
<th>TYPE OF COVERAGE</th>
<th>MINIMUM LIMITS</th>
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</thead>
<tbody>
<tr>
<td>YES</td>
<td>WORKER’S COMPENSATION EMPLOYER’S LIABILITY</td>
<td></td>
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<tr>
<td>YES</td>
<td>GENERAL LIABILITY, INCLUDING PERSONAL INJURY, BROAD FORM</td>
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<td></td>
<td>PROPERTY DAMAGE BLANKET CONTRACTUAL, AND FIRE LEGAL</td>
<td></td>
</tr>
<tr>
<td></td>
<td>LIABILITY</td>
<td></td>
</tr>
<tr>
<td>YES</td>
<td>AUTOMOBILE LIABILITY, INCLUDING ALL OWNED, HIRED, NON-</td>
<td></td>
</tr>
<tr>
<td></td>
<td>OWNED</td>
<td></td>
</tr>
<tr>
<td>NO</td>
<td>PROFESSIONAL LIABILITY, INCLUDING, ERRORS AND</td>
<td></td>
</tr>
<tr>
<td></td>
<td>OMISSIONS, MALPRACTICE (WHEN APPLICABLE), AND NEGLIGENCE</td>
<td></td>
</tr>
<tr>
<td></td>
<td>PERFORMANCE</td>
<td></td>
</tr>
<tr>
<td>YES</td>
<td>THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL</td>
<td></td>
</tr>
<tr>
<td></td>
<td>INSURED: CONTRACTOR, AT ITS SOLE COST AND EXPENSE, SHALL</td>
<td></td>
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<tr>
<td></td>
<td>OBTAIN AND MAINTAIN, IN FULL FORCE AND EFFECT</td>
<td></td>
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<tr>
<td></td>
<td>THROUGHOUT THE ENTIRE TERM OF ANY RESULTANT AGREEMENT,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>THE INSURANCE COVERAGE HEREIN DESCRIBED, INSURING NOT</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ONLY CONTRACTOR AND ITS SUBCONSULTANTS, IF ANY, BUT</td>
<td></td>
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<td></td>
<td>ALSO, WITH THE EXCEPTION OF WORKERS’ COMPENSATION,</td>
<td></td>
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<tr>
<td></td>
<td>EMPLOYER’S LIABILITY AND PROFESSIONAL INSURANCE, NAMING</td>
<td></td>
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<tr>
<td></td>
<td>AS ADDITIONAL INSURED CITY, ITS COUNCIL MEMBERS, OFFICERS,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>AGENTS, AND EMPLOYEES.</td>
<td></td>
</tr>
</tbody>
</table>

I. INSURANCE COVERAGE MUST INCLUDE:

A contract liability endorsement providing insurance coverage for Contractor’s agreement to indemnify City.

II. CONTRACTOR MUST SUBMIT CERTIFICATES(S) OF INSURANCE EVIDENCING REQUIRED COVERAGE.

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 INSURED.

B. CROSS LIABILITY

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

C. NOTICE OF CANCELLATION

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

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

NOTICES SHALL BE MAILED TO:

PURCHASING AND CONTRACT ADMINISTRATION
CITY OF PALO ALTO
P.O. BOX 10250
PALO ALTO, CA  94303
EXHIBIT E
TECHNICAL REQUIREMENTS

CITY APPROVED HARDWARE
Provided in Attachment A is a list of Sign Bracketing Hardware as well as all other types of hardware used by the City of Palo Alto. The CONTRACTOR shall be required to use the same sign bracketing, Hardware material and stencils/ pavement markings, as specified on projects to ensure compatibility with existing field hardware. All pipe installed in concrete islands to have the Snap-n-Safe breakaway device. "No Parking" signs shall be placed by CONTRACTOR 72 hours prior to job, as required. "No Parking" signs will be provided by City of Palo Alto.

- Typical Sign Hardware used by the City of Palo Alto
- Typical Standard bolts for sign installations – 5/16” – Hawkins # M2G-BHX
- Typical Theft-proof bolts for sign installations – 5/16” – Hawkins # M2G - BTP
- Typical 2” U-Clamp with side brackets to mount signs perpendicular to 2”sign pole for double-sided signs – Hawkins # M2G-C2WB1
- Typical 2” Clamp to mount signs flush on 2” sign pole for single-sided signs – Hawkins # M2G-C2B
- Typical Type K marker and base (often used on islands) – # OM2-1H for the 3-lite reflector
- Typical Side Mount Bracket used with banding to mount sign perpendicular to pole for double-sided signs. Hawkins # M2G-1-SWS
- Typical Flared Leg Bracket used with banding to mount sign flush with pole for single-sided signs. Hawkins # M2G-UBF
- Typical Threaded 2” L-Bracket for mounting double sided signs on top of a threaded 2” sign pipe. Hawkins # M2G-2LBT
- Typical Straight Leg Bracket used with banding to mount sign flush to pole for single-sided signs. Hawkins # M2G-UB
- Typical Non-threaded 2” L-Bracket for mounting double sided signs on top of a threaded 2” sign pipe. Hawkins # M2G-2LBT
- Typical Bracket used to mount street name signs off of a light standard or traffic signal pole. Banding must be used to attach bracket to source. Hawkins # V14(HD)SL-105
- Typical 2” Pipe Cap to mount street name sign on top of 2”sign pipe – Hawkins # V14(HD)SL
- Typical 2” Cross-Bracket for mounting street name signs perpendicular to each other. Hawkins # V14(HD)SL105
- Typical 2” ID Galvanized Schedule 40 sign pipe used for mounting signs
- Typical 2” Pipe Coupling for joining two pieces of 2” Schedule 40 pipe
- Typical 201 Stainless Steel Banding Buckle – Band-It brand # UB256
- Typical 201 Stainless Steel Banding – Hawkins # M2G-345 (UG)
- Breakaway Coupler for mounting sign pipe in medians, traffic circles and other locations where there may be frequent repairs. – Designovations Snapnsafe Breakaway Coupler #S238R8
Appendix A:
Claims for Public Contract Code Section 9204 Public Works Projects

The provisions of this Appendix are provided in compliance with Public Contract Code Section 9204; they provide the exclusive procedures for any claims related to the Services performed under this Agreement.

1. **Claim Definition.** “Claim” means a separate demand by the Contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

   (A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by the City.
   (B) Payment by the City of money or damages arising from the Services performed by, or on behalf of, the Contractor pursuant to the Agreement and payment for which is not otherwise expressly provided or to which the Contractor is not otherwise entitled.
   (C) Payment of an amount that is disputed by the City.

2. **Claim Process.**

   (A) **Timing.** Any Claim must be submitted to City in compliance with the requirements of this Appendix no later than fourteen (14) days following the event or occurrence giving rise to the Claim. This time requirement is mandatory; failure to submit a Claim within fourteen (14) days will result in its being deemed waived.

   (B) **Submission.** The Claim must be submitted to City in writing, clearly identified as a “Claim” submitted pursuant to this Appendix, and must include reasonable documentation substantiating the Claim. The Claim must clearly identify and describe the dispute, including relevant references to applicable portions of the Agreement, and a chronology of relevant events. Any Claim for additional payment must include a complete, itemized breakdown of all labor, materials, taxes, insurance, and subcontract, or other costs. Substantiating documentation such as payroll records, receipts, invoices, or the like, must be submitted in support of each claimed cost. Any Claim for an extension of time or delay costs must be substantiated with schedule analysis and narrative depicting and explaining claimed time impacts.

   (C) **Review.** Upon receipt of a Claim in compliance with this Appendix, the City shall conduct a reasonable review of the Claim and, within a period not to exceed 45 days from receipt, shall provide the Contractor a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Upon receipt of a Claim, the City and Contractor may, by mutual agreement, extend the time period provided in this paragraph 2.
(D) If City Council Approval Required. If the City needs approval from the City Council to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the Claim, and the City Council does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a Claim sent by registered mail or certified mail, return receipt requested, the City shall have up to three days following the next duly publicly noticed meeting of the City Council after the 45-day period, or extension, expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.

(E) Payment. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the City issues its written statement. If the City fails to issue a written statement, paragraph 3, below, shall apply.

3. Disputed Claims

(A) Meet and Confer. If the Contractor disputes the City's written response, or if the City fails to respond to a Claim submitted pursuant to this Appendix within the time prescribed, the Contractor may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the City shall schedule a meet and confer conference within 30 days for settlement of the dispute. Within 10 business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, the City shall provide the Contractor a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the City issues its written statement.

(B) Mediation. Any remaining disputed portion of the Claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with the City and the Contractor sharing the associated costs equally. The City and Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the Claim has been identified in writing by the Contractor. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the Claim remaining in dispute shall be subject to any other remedies authorized by the Agreement and laws.

(i) For purposes of this paragraph 3.B, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(ii) Unless otherwise agreed to by the City and the Contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation,
if any, under Public Contract Code Section 20104.4 to mediate after litigation has been commenced.

4. **City’s Failure to Respond.** Failure by the City to respond to a Claim from the Contractor within the time periods described in this Appendix or to otherwise meet the time requirements of this Appendix shall result in the Claim being deemed rejected in its entirety. A Claim that is denied by reason of the City’s failure to have responded to a Claim, or its failure to otherwise meet the time requirements of this Appendix, shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the Contractor.

5. **Interest.** Amounts not paid in a timely manner as required by this section shall bear interest at seven (7) percent per annum.

6. **Approved Subcontractor Claims.** If an approved subcontractor or a lower tier subcontractor lacks legal standing to assert a Claim against the City because privity of contract does not exist, the Contractor may present to the City a Claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the Contractor present a Claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the Claim be presented to the City shall furnish reasonable documentation to support the Claim. Within 45 days of receipt of this written request, the Contractor shall notify the subcontractor in writing as to whether the Contractor presented the claim to the City and, if the Contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

7. **Waiver of Provisions.** A waiver of the rights granted by Public Contract Code Section 9204 is void and contrary to public policy, provided, however, that (1) upon receipt of a Claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) the City may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of Public Contract Code Section 9204, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.
Title: Approval of Contract C22182466 With Ranger Pipelines, Inc. in the Amount of $7,819,336 for Water Main Replacement Project 28 (WS-14001) in the Barron Park, Oak Creek, Duveneck Francis, Charleston Meadows Neighborhoods and in the California Business District, and Authorization for the City Manager to Negotiate and Execute Related Change Orders Not-to-Exceed $781,934 for a Total Not-to-Exceed Amount of $8,601,270

From: City Manager

Lead Department: Utilities

Recommendation
Staff recommends that Council:

1. Approve and authorize the City Manager or their designee to execute the attached contract C22182466 (Linked Document) with RANGER PIPELINES, Inc. in an amount not-to-exceed $7,819,336 for the Water Main Replacement Project 28 (WMR Project 28) Capital Improvement Program (WS-14001) in the Barron Park, Oak Creek, Duveneck Francis, Charleston Meadows neighborhoods and in the California Business District.

2. Approve and authorize the City Manager or their designee to negotiate and execute one or more changes to the contract with RANGER PIPELINES, Inc. for related additional but unforeseen work, which may develop during the project, the total value of which shall not exceed $781,934 or 10% of the contract amount.

   The total not-to-exceed amount is $8,601,270, which includes the contract amount of $7,819,336 and a 10% contingency of $781,934.

Background
In 2015 the City completed a master plan water study to review the replacement priority of existing water pipelines in the distribution system. The study updated and replaced the previous master plan water study from the 1999. The 2015 master plan attempted to minimize costs by focusing on the most vulnerable sections of pipelines and prioritizing these sections for replacement during the City’s Capital Improvement Projects. The plan identified 11.64 miles of pipelines for replacement, including 1.77 miles of deteriorated and 9.87 miles of seismically damaged.
vulnerable pipelines. Since 2015, the City has completed four Water Main Replacement Projects (WMR), with the first three WMR projects focusing on the 1990’s plan and the most recent WMR project focusing on the 2015 plan. Moving forward the City will use the 2015 master plan to assist with identifying and prioritizing water distribution pipelines for replacement.

The WMR Project 28 will replace approximately 3.5 miles of water distribution main, of which 1 mile is identified in the 2015 master plan study as seismically vulnerable. The remaining 2.5 miles on this project will be replaced due to their material properties and potential impact on water quality. These sections include replacement of cast iron (CI) and asbestos cement (AC) pipelines. Approximately 8% of the City’s existing water distribution system is comprised of CI pipelines (average age is 74 years old), while AC pipelines account for approximately 56% (average age is 61 years old). These pipelines are being replaced, as they become subject to pipeline breaks and contribute to poor water quality after 50 to 81 years in service. The City is reviewing aging infrastructure and will be replacing these materials, in addition to pipelines identified in the 2015 master plan, to improve system reliability. After analyzing the risk of pipeline failures, staff has prioritized replacement of these water pipelines within the distribution system as part of the WMR Project 28.

All existing CI, AC and PVC water distribution mains in the project area will be replaced with High Density Polyethylene (HDPE) pipe. Replacing the water distribution mains with HDPE pipe, with fused joints, will eliminate leaks in the project area, increase the reliability of the water distribution system, protect the quality of supplied water, and provide more reliable flow and pressure for fire protection. The existing 6” ductile iron pipe (DIP) segment attached to the side of Matadero Bridge near Matadero and Tippawingo intersection will be replaced with new 6” DIP. The existing pipe is 41 years old. It was included in the project scope due to its age and conditions. The 6” DIP City-owned pipe segment is located within the limits of Valley Water right-of-way and a permit has already been approved. Since this segment is a City owned and operated pipeline, within Valley Water’s right-of-way, it is the City’s responsibility for replacement. This is similar to City gas and water pipelines within Caltrans and County right-of-way, where the City is responsible for 100% of replacement costs.

Discussion

Project Description

The scope of this contract includes installation of approximately 18,763 linear feet of new HDPE water mains, 256 new HDPE water services, 40 new fire hydrants, 82 gate valves and installation of approximately 34 linear feet of new 6” DIP and related components within the limits of the City of Palo Alto. Any landscaping that may be removed as part of the work will be restored in kind when construction is completed.

The project is located in five City neighborhoods. Work in California Business District (Birch Street between Cambridge and California Avenue), work in Duveneck Francis neighborhood (Edgewood Drive between Jefferson and 1945 Edgewood, Patricia Lane, Jefferson Drive and
Edgewood Court) and work in Barron Park neighborhood (Matadero between Laguna and El Camino Real, La Mata Way, Julie and Emma Courts, Josina between Barron Avenue and Matadero, Tippawingo Street between Matadero and Chimalus, excluding El Camino Real between Hansen Way and Matadero) are included in Base Bid of the IFB. Work in Charleston Meadows neighborhood (Dinah’s Court/Parksquare Apartment Complex, and El Camino Real at Dinah’s Court) and work in Oak Creek neighborhood are included in Bids Alternate. El Camino Real (between Hansen Way and Matadero) is also included in Bid Alternate. Some of the installation work will be within existing utility easements located on private property of Parksquare Apartment Complex, on a portion of Dinah Ct., and at the Oak Creek Apartment Complex. Staff will work with property owners to ensure necessary easements are documented and recorded prior to installation of new infrastructure.

Water pipelines included in the WMR Project 28 are located near the following watersheds: Matadero Creek watershed in Barron Park area, San Francisquito Creek watershed in both Oak Creek and Duveneck Francis areas, and within Adobe Creek watershed in Charleston Meadows area. The project includes replacement of existing 6” Polyvinyl Chloride (PVC) pipelines on Matadero Avenue along Matadero Creek. Project locations are shown on Attachment A (Linked Document).

The City will provide written notification to all affected property occupants prior to the start of construction. The Contractor will also provide two written notifications of the work to all abutting property occupants, at least 15 days prior to the commencement of work at their specific locations, and a second 24-hour notification prior to mobilization.

As part of the planning and design process, staff coordinated this project with other City Departments, Stanford, Caltrans, and Valley Water to minimize interference with other contractors and their schedules. To minimize disruption during construction, work will generally be performed from 8:00 AM to 5:00 PM, Monday through Friday; work in California Business District will be performed between 9:00 AM and 4:00 PM Monday through Friday; work on majority of streets in Barron Park and Duveneck Francis neighborhoods will be performed between 8:45 AM and 5:00 PM Monday through Friday; and work on El Camino Real will be performed between 9:00 AM and 4:00 PM Monday through Friday.

No construction work will be allowed in any part of the City during the two-week period between December 19, 2022 and January 2, 2023 and during Thanksgiving week between November 21 and November 28, 2022 unless approved by the City due to necessity to accelerate the schedule to prevent delays for the subsequent potential Utilities and/or Public Works projects. No construction activities will be allowed within the California Business District area (Birch Street) between Thanksgiving and New Year’s day, due to the impact on retailers during the holiday season. The construction period for each location will vary depending on the extent of work to be done; residents/business can expect construction in their area lasting a minimum of two months.
Bid Process
On October 26, 2021, the City posted a notice inviting formal bids (IFB) for the Water Main Replacement Project 28 on the City’s electronic procurement system, PlanetBids. The bidding period was 29 calendar days. The City received three (3) bids from qualified contractors on November 24, 2021 as listed on Attachment B Bid Summary (Linked Document).

BID SUMMARY

<table>
<thead>
<tr>
<th>Bid Name/Number</th>
<th>Water Main Replacement Project 28, CIP WS-14001, IFB Number 182466</th>
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</thead>
<tbody>
<tr>
<td>Proposed Length of Project</td>
<td>379 Working Days (for base bid and four bid alternates)</td>
</tr>
<tr>
<td>Number of Bids Mailed to Contractors</td>
<td>0 (electronic documents were available in PlanetBids)</td>
</tr>
<tr>
<td>Number of Bid Notices Emailed to Contractors and Builder's Exchanges</td>
<td>1,631</td>
</tr>
<tr>
<td>Total Days to Respond to Bid</td>
<td>29</td>
</tr>
<tr>
<td>Pre-Bid Meeting?</td>
<td>Yes (Mandatory)</td>
</tr>
<tr>
<td>Number of Company Attendees at Pre-Bid Meeting</td>
<td>12 (virtual meeting via MS Teams)</td>
</tr>
<tr>
<td>Number of Bids Received:</td>
<td>3</td>
</tr>
<tr>
<td>Bid Price Range</td>
<td>$7,819,336-$10,596,455</td>
</tr>
</tbody>
</table>

Staff has reviewed the submitted bids and recommends that the bid of $7,819,336 submitted by RANGER PIPELINES, Inc. be accepted and that RANGER PIPELINES, Inc. be declared the lowest responsible and responsive bidder. The bid is approximately 23 percent below the staff engineer’s estimate of $11,212,168. The Staff engineer’s estimate for WMR 28 accounted for the following factors: recent increases in the cost of materials and labor for this type of work; large demand for construction work in the Bay Area, and supply issues. For these reasons, unit prices in engineer’s estimate were higher than they were for previous project WMR 27.

The contingency amount of $781,934, which equals 10 percent (10%) of the total contract amount, is requested for additional unforeseen work that may develop during the project. Additional work is possible with construction projects because during construction there may be previously unknown obstructions or ground conditions that require changes in how construction will proceed, leading to change orders that may create additional expenses. A contingency fund is necessary to prevent significant delays in the project to handle these unforeseen conditions, which could otherwise result in longer road closures and disruptions. Any unspent contingency funds are returned to reserves at the end of the project.

Staff confirmed with the Contractor's State License Board that RANGER PIPELINES, Inc. and their subcontractors, have active licenses on file. Staff checked references provided by RANGER PIPELINES, Inc. for previous work performed and received positive feedback from other agencies. Staff also confirmed that both RANGER PIPELINES, Inc. and their subcontractor are
registered and in good standing with the Department of Industrial Relations (DIR). In addition, RANGER PIPELINES, Inc. has contracted with the City in the past for other Utilities CIP projects, including recent Water Main Replacement Project 27 and Upgrade Downtown project, and has demonstrated the knowledge and ability needed to complete this project (WMR 28) on schedule and within budget.

Resource Impact

Budget Appropriation

In 2017, under the Water Main Replacement Project 27 (WMR Project 27), staff budgeted for the replacement of water pipelines in Oak Creek, which runs alongside the San Francisquito Creek watershed. Due to time constraints, staff removed this section of pipeline from WMR Project 27 and added to WMR Project 28.

Funds for the construction contract of $7,819,336 including the contingency amount of $781,934 are available in the FY 2022 Adopted Capital Budget for the WMR Project 28, WS-14001. The size of this project significantly exceeds the City’s in-house construction resources making it necessary to contract out the work.

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.

Staff is advancing this recommendation as reflected in the City’s adopted budget. Should the City Council wish to defer this project in light of the current pandemic and other priorities related to community and economic recovery, this item may be removed from the Consent Calendar. Staff will then return to Council with this and other projects for reconsideration.

Policy Implications

The approval of this contract is consistent with existing City policies including the Council approved 2018 Utilities Strategic Plan-Strategic Objectives, Priority 4 - Strategy 1 “Establish a proactive infrastructure replacement program, based on planned replacement before failure to support reliability and resiliency.” Facing an evolving utility business environment, aging infrastructure needs, and sustainability objectives, CPAU must maintain a competitive position in the market. Remaining financially sustainable and competitive in the market while optimizing our resources is key to maintaining and enhancing our value to customers. Strategies in this Priority focus on proactively renewing and managing CPAU’s infrastructure, continuously improving financial processes, enhancing infrastructure maintenance programs, defining CPAU’s role in community resiliency, and achieving sustainable energy resource and water supply plans.
Stakeholder Engagement
The City will provide written notification to all affected property occupants prior to the start of construction. The Contractor will also provide two written notifications of the work to all abutting property occupants, at least 15 days prior to the commencement of work at their specific locations, and a second 24-hour notification prior to mobilization. To minimize disruptions during construction, work in California Business District will be performed between 9:00 AM and 4:00 PM Monday through Friday; work on majority of streets in Barron Park and Duveneck Francis neighborhoods will be performed between 8:45 AM and 5:00 PM Monday through Friday; and work on El Camino Real will be performed between 9:00 AM and 4:00 PM Monday through Friday.

Environmental Review
This project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines 15301 (repair, maintenance of existing facilities) and 15302 (replacement or reconstruction of existing facilities).

Attachments:
- Attachment9.a: ATTACHMENT A: Location Maps
- Attachment9.b: ATTACHMENT B: Bid Summary
ATTACHMENT A
PAGE 1 OF 2

LEGEND
Water Main Replacement

PROJECT LOCATION MAP (AREAS I AND II)
NOT TO SCALE
<table>
<thead>
<tr>
<th>Index</th>
<th>Description</th>
<th>Quantity</th>
<th>Units</th>
<th>Base Price</th>
<th>Amount</th>
<th>Price</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Install new fire hydrant assembly, abandon/remove existing fire hydrant assembly (Dinah's Ct/Wilkie Loop) (LEGEND ITEM 4)</td>
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<tr>
<td>2</td>
<td>Install 12&quot; gate valve</td>
<td>7</td>
<td>EA</td>
<td>$7,000.00</td>
<td>$49,000.00</td>
<td></td>
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<tr>
<td>3</td>
<td>Perform GPS survey</td>
<td>1</td>
<td>LS</td>
<td>$10,000.00</td>
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<tr>
<td>4</td>
<td>Install 4&quot; HDPE services to 2&quot; meter by HDD or open cut method (Dinah's Court/Wilkie Loop area) (LEGEND ITEM 8)</td>
<td>5</td>
<td>EA</td>
<td>$9,000.00</td>
<td>$9,000.00</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
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<td>$10,000.00</td>
<td>$10,000.00</td>
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<tr>
<td>5</td>
<td>Install 8&quot; HDPE FS and connection to existing FS at PL (LEGEND ITEM 6)</td>
<td>1</td>
<td>EA</td>
<td>$8,000.00</td>
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<td>$7,000.00</td>
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<tr>
<td>6</td>
<td>Install 6&quot; line stop</td>
<td>1</td>
<td>EA</td>
<td>$9,000.00</td>
<td>$9,000.00</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
<td>$9,890.00</td>
<td>$9,890.00</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
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<td>7</td>
<td>Install 6&quot; line stop</td>
<td>1</td>
<td>EA</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
<td>$7,925.00</td>
<td>$7,925.00</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
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<td>8</td>
<td>Install 4&quot; HDPE services to 2&quot; meter by open cut method on El Camino Real (LEGEND ITEM 8)</td>
<td>1</td>
<td>EA</td>
<td>$9,500.00</td>
<td>$9,500.00</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
<td>$5,650.00</td>
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<tr>
<td>9</td>
<td>Install 4&quot; HDPE service to 2&quot; meter (LEGEND ITEM 8)</td>
<td>3</td>
<td>EA</td>
<td>$9,000.00</td>
<td>$27,000.00</td>
<td>$5,000.00</td>
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<td>$14,500.00</td>
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<td>10</td>
<td>Install 4&quot; HDPE service to 2&quot; meter manifold (LEGEND ITEM 9)</td>
<td>2</td>
<td>EA</td>
<td>$10,000.00</td>
<td>$20,000.00</td>
<td>$5,000.00</td>
<td>$10,000.00</td>
<td>$14,900.00</td>
<td>$29,800.00</td>
<td>$10,000.00</td>
<td>$20,000.00</td>
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<td>11</td>
<td>Install 8&quot; HDPE FS and connection to existing FS at PL (LEGEND ITEM 6)</td>
<td>1</td>
<td>EA</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
<td>$7,000.00</td>
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<td>12</td>
<td>Install 2&quot; blow-off assembly</td>
<td>3</td>
<td>EA</td>
<td>$6,000.00</td>
<td>$18,000.00</td>
<td>$2,000.00</td>
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<td>13</td>
<td>Install 8&quot; line stop</td>
<td>3</td>
<td>EA</td>
<td>$11,500.00</td>
<td>$34,500.00</td>
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<td>14</td>
<td>Exchange 1-1/2&quot; or 2&quot; meter</td>
<td>10</td>
<td>EA</td>
<td>$300.00</td>
<td>$2,700.00</td>
<td>$500.00</td>
<td>$4,500.00</td>
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<td>$7,785.00</td>
<td>$260.00</td>
<td>$2,340.00</td>
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<td>15</td>
<td>Install 12&quot; gate valve</td>
<td>1</td>
<td>EA</td>
<td>$7,000.00</td>
<td>$7,000.00</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
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<td>16</td>
<td>Install 2&quot; temporary blow-off/sample station</td>
<td>1</td>
<td>EA</td>
<td>$1,000.00</td>
<td>$10,000.00</td>
<td>$1,000.00</td>
<td>$10,000.00</td>
<td>$3,175.00</td>
<td>$31,750.00</td>
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<td>17</td>
<td>500 Inch/LF Sawcut additional pavement (thickness)</td>
<td>10,000</td>
<td>Inch/LF</td>
<td>$0.25</td>
<td>$2,500.00</td>
<td>$0.05</td>
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<td>$1.25</td>
<td>$12,500.00</td>
<td>$0.15</td>
<td>$1,500.00</td>
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<td>18</td>
<td>Install 8&quot; DI pipe by open cut method at tie-in or other locations</td>
<td>20</td>
<td>LF</td>
<td>$400.00</td>
<td>$8,000.00</td>
<td>$480.00</td>
<td>$9,600.00</td>
<td>$320.00</td>
<td>$6,400.00</td>
<td>$650.00</td>
<td>$13,000.00</td>
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<td>19</td>
<td>Install additional sidewalk</td>
<td>500</td>
<td>SF</td>
<td>$15.00</td>
<td>$7,500.00</td>
<td>$5.00</td>
<td>$2,500.00</td>
<td>$70.00</td>
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<td>20</td>
<td>Install additional gutter</td>
<td>500</td>
<td>LF</td>
<td>$25.00</td>
<td>$12,500.00</td>
<td>$10.00</td>
<td>$5,000.00</td>
<td>$94.00</td>
<td>$47,000.00</td>
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<td>21</td>
<td>Install 10&quot; HDPE pipe by open cut method (Dinah's Court/Wilkie Loop area)</td>
<td>773</td>
<td>LF</td>
<td>$410.00</td>
<td>$316,930.00</td>
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<td>$216,440.00</td>
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<td>22</td>
<td>Replace existing meter box with new Armorcast 11&quot;x21&quot;x12&quot; box assembly</td>
<td>1</td>
<td>EA</td>
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<td>$2,500.00</td>
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<tr>
<td>23</td>
<td>Replace existing utility vault and bypass assembly</td>
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<td>EA</td>
<td>$15,000.00</td>
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<td>$4,500.00</td>
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<tr>
<td>24</td>
<td>Disposal of excavated soils at Class 2 landfill</td>
<td>10 Ton</td>
<td></td>
<td>$250.00</td>
<td>$2,500.00</td>
<td>$75.00</td>
<td>$750.00</td>
<td>$320.00</td>
<td>$3,200.00</td>
<td>$80.00</td>
<td>$800.00</td>
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<td>25</td>
<td>Reconnect existing fire service (up to 6&quot;) pipe at the main</td>
<td>1</td>
<td>EA</td>
<td>$1,800.00</td>
<td>$1,800.00</td>
<td>$4,500.00</td>
<td>$4,500.00</td>
<td>$1,200.00</td>
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<td>$6,000.00</td>
<td>$6,000.00</td>
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<tr>
<td>26</td>
<td>Install/remove stem into existing line stop saddle on existing main (10&quot;)</td>
<td>1</td>
<td>LS</td>
<td>$4,100.00</td>
<td>$4,100.00</td>
<td>$16,000.00</td>
<td>$16,000.00</td>
<td>$9,700.00</td>
<td>$9,700.00</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
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B: OPTIONAL/ADD ALTERNATE BID 3 EL CAMINO REAL
Meeting Date: 2/28/2022

Title: Approval of Contract No. C22182372 with CSW/Stuber-Stroeh Engineering Group Inc. in the Amount of $164,852 for Design Services for the University Avenue Streetscape Update Capital Improvement Program Project, PE-21004 and Approval of Budget Amendments in the Capital Improvement Fund and the Stanford University Medical Center (SUMC) Fund

From: City Manager

Lead Department: Public Works

Recommendation
Staff recommends that Council:

1. Approve and authorize the City Manager or their designee to execute Contract No. C22182372 (Attachment A), with CSW/Stuber Stroeh Engineering Group Inc. in a not-to-exceed amount of $164,852 for design services including $149,866 for basic services and $14,986 for additional services for the University Avenue Streetscape Update (Capital Improvement Program project (PE-21004); and

2. Amend the Fiscal Year 2022 budget appropriation (by a 2/3 vote) for the:
   a. Capital Improvement Fund by:
      i. Increasing the transfer from the Stanford University Medical Center (SUMC) Fund by $25,000; and
      ii. Increasing the University Avenue Streetscape Update Project (PE-21004) appropriation by $25,000.
   b. Stanford University Medical Center (SUMC) Fund by:
      i. Increasing the Transfer to the Capital Improvement Fund from Expansion Cost Mitigation by $25,000; and
      ii. Decreasing the Ending Fund Balance by $25,000.

Background
University Avenue is a two-lane street that provides access from Highway 101 through the downtown area and continues to Stanford University. University Avenue is a regional and local public destination for shopping, dining, and entertainment. Due to the COVID-19 pandemic impacts and to support local businesses and the community, the City closed portions of University Avenue to vehicular traffic in 2020 and 2021 through the “Uplift Local” program, enabling outdoor dining and retail experiences. To facilitate people-centric activities and to create a more vibrant and inclusive space to support residents and local businesses, staff issued
a Request for Proposals (RFP) in September 2021 for University Avenue to transform the
streetscape by repurposing streets, sidewalks, curbs, and parking areas. The goal of the project
is to adapt the public realm to maximize pedestrian and bicycle use, and accentuate and
enhance the retail environment, while maintaining vital two-way vehicular access, parking
opportunities, delivery and loading zones, ride share spaces, and other amenities including
performance space.

On March 1, 2021, Council approved a new project, University Avenue Streetscape Update PE-
21004 (Staff Report ID #11872) as directed as part of the City Council approved workplan for
Community and Economic Recovery (CMR #11877). This workplan approved $150,000 of seed
funding for this project recommended to be allocated from the Stanford University Medical
Center Fund Expansion Cost Mitigation allocation of funding. On September 13, 2021, staff
provided the RFP scope of services for Council’s feedback (Staff Report ID #13540). The RFP for
Phase 1 of the project included site analysis and field survey work, preliminary environmental
studies including a traffic study and arborist report, and public meetings to develop a
community preferred plan line, cost estimates, and an assessment analysis to allocate the costs
to businesses and property owners who would benefit from the expanded space.

Council directed staff to proceed with the University Avenue Streetscape Design RFP including
stakeholder input, sales tax data analysis, and consultant’s recommendations based on the
learning experiences from re-opening of University Avenue for vehicular traffic in October 2021.

Discussion
CSW/Stuber-Stroeh Engineering Group Inc. – Scope of Services
The scope of services for the contract with CSW/Stuber-Stroeh Engineering Group Inc.
(Attachment A) consists of Phase 1 of the 4 phases outlined in the RFP, which are summarized
as follows:

Phase 1: Conceptual Design, Public Outreach, Preliminary Environmental Studies and
Financial Assessment Analysis
Phase 2: Preliminary Design, Environmental Assessment, Value Engineering and Cost
Estimates
Phase 3: Final Design, Construction Documents and Bidding
Phase 4: Construction Administration

At this time, staff recommends authorizing the proposed contract for Phase 1 services only.
Subject to the City Council’s further review and consideration upon completion of the
conceptual design under Phase 1, the contract would be amended to include services under
Phases 2 through 4.

The Phase 1 scope of services is briefly summarized below.

- Stakeholder coordination and public outreach (City staff, residents, retail/businesses,
  Pedestrian and Bicycle Advisory Committee (PABAC), Planning and Transportation
Commission (PTC), and Council).
- Data collection, field analysis, and surveys.
- Preliminary environmental studies including traffic and arborist reports.
- Streetscape conceptual design alternatives and community preferred plan line development.
- Cost estimate, funding and assessment planning.

Request for Proposal (RFP) Process
On September 1, 2021, the City released an RFP (No. 182372) for University Avenue Streetscape Design Project (PE-21004) for professional services. A total of 38 vendors downloaded the RFP and three proposals were received. An evaluation committee comprised of staff from the Public Works Department, Planning and Development Services Department, Office of Transportation, and City Manager’s Office reviewed the proposals in response to the criteria identified in the RFP.

| Proposal Description/ Number | University Avenue Streetscape Design Project (PE-21004) RFP (Number 182372) |
|-------------------------------|---------------------------------------------------------------------------------
| **Proposed length of project** | Phase 1 – approximately 1 year; Phases 2 through 4 – approximately 4 years. |
| **Number of websites**        | 1 (PlanetBids)                                                                |
| **Number of days to respond** | 42                                                                            |
| **Number of proposals received** | 3                                                                                 |

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Location</th>
<th>Selected for Interview?</th>
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<tbody>
<tr>
<td>CSW/Stuber-Stroeh Engineering Group Inc.</td>
<td>Novato, CA</td>
<td>Yes</td>
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<tr>
<td>BKF Engineers</td>
<td>Redwood City, CA</td>
<td>Yes</td>
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<tr>
<td>Wallace Roberts and Todd, LLC</td>
<td>San Francisco, CA</td>
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| Submitted Basic Services Fee Range Phase 1: | $149,742 to $150,000 |

On November 10, 2021, the evaluation committee interviewed all three firms that submitted proposals and recommended CSW/Stuber-Stroeh as the top-scoring proposer. Staff recommends awarding the contract to CSW/Stuber-Stroeh based on their experience with renovating streetscapes, public outreach, and understanding of the project goals and needs. In addition, CSW/Stuber-Stroeh’s environmental assessment and public outreach subconsultant, Gates and Associates, has extensive experience with Palo Alto community outreach and Boards and Commissions approval processes, which is important for successful project execution and timely completion.

The RFP requested pricing for services in phases 2 through 4 for the project. CSW/Stuber-Stroeh provided a total estimated cost of $870,000 for work in phases 2 through 4; however, the scope and estimate for future phases of work will be refined based on the selected conceptual design.
option in Phase 1.

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

**Timeline and Next Steps**
Staff anticipates that Phase 1 services for conceptual design and preliminary engineering will take approximately one year to complete. Staff will return to Council in early 2023 to present the preferred plan line alternative for approval prior to proceeding with preliminary design and authorization for future phases of the design.

**Resource Impact**
Council approved $150,000 for this project on March 1, 2021 funded by the Stanford University Medical Center (SUMC) Fund Expansion Cost Mitigation allocation of funding. Based on the recommendations above, an additional appropriation of $25,000 from the SUMC Fund Expansion Cost Mitigation allocation is required. This would result in the SUMC Fund Expansion Cost Mitigation allocation having a remaining balance of approximately $1.05 million in unallocated funding. The additional funding includes $14,986 for additional services and $10,014 for administrative costs for printing and outreach. Additional funding needed to support Phases 2 through 4 will be appropriated in future fiscal years to coincide with the design and construction schedule. CSW/Stuber-Stroeh provided a total estimated cost of $870,000 for work in phases 2 through 4; however, the scope and estimate for future phases of work will be refined based on the selected conceptual design option in Phase 1.

**Policy Implications**
The project is consistent with the Comprehensive Plan goals, policies and programs.

Policy L-4.7  Maintain and enhance the University Avenue/Downtown area as a major commercial center of the City, with a mix of commercial, civic, cultural, recreational and residential uses. Promote quality design that recognizes the regional and historical importance of the area and reinforces its pedestrian character.

Policy L-4.8  Ensure that University Avenue/Downtown is pedestrian-friendly and supports bicycle use. Use public art, trees, bicycle racks and other amenities to create an environment that is inviting to pedestrians and bicyclists.
Policy B-6.1 Support and enhance the University Avenue/Downtown area as a vital mixed-use area prioritizing retail, personal service, small office, start-ups, restaurant, residential and arts and entertainment uses. Recognize the importance of an appropriate retail mix, including small local businesses, to the continued vitality of Downtown.

Stakeholder Engagement
The scope of services under this contract includes public outreach and stakeholder engagement to develop a community preferred plan line alternative for the University Avenue streetscape design. Planned community meetings include meetings with residents, retail/businesses, PABAC, PTC, and Council.

Environmental Review
CSW/Stuber-Stroeh will complete a preliminary environmental assessment including traffic study and arborist reports under the Phase 1 scope of services. Once a plan line alternative is developed for preliminary design, CSW/Stuber-Stroeh will complete an environmental assessment for evaluation under CEQA. It is anticipated that the initial study will conclude that an Environmental Impact Report or Mitigated Negative Declaration may be required for the project.

Attachments:
CITY OF PALO ALTO CONTRACT NO. C22182372

AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN THE CITY OF PALO ALTO AND
CSW/STUBER-STROEH ENGINEERING GROUP INC.

This Agreement for Professional Services (this “Agreement”) is entered into as of the 28th day of February 2022 (the “Effective Date”), by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and CSW/STUBER-STROEH ENGINEERING GROUP INC., a California corporation, located at 45 Leveroni Court, Novato, CA 94949 (“CONSULTANT”).

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

RECITALS

A. CITY intends to repurpose University Avenue Streetscape to facilitate people-centric activities and community programming (the “Project”) and desires to engage a consultant to provide professional design and engineering services 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 December 31, 2024 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 **One Hundred Forty Nine Thousand Eight Hundred Sixty-Six Dollars ($149,866.00)**. 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 **Fourteen Thousand Nine Hundred Eighty-Six Dollars ($14,986.00)** 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 Sixty-Four Thousand Eight Hundred Fifty-Two Dollars ($164,852.00)**, 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
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 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:

- Gates and Associates, 2671 Crow Canyon Road, San Ramon, CA 94583
- Fehr and Peers, 100 Pringle Avenue, Suite 600, Walnut Creek, CA 94596
- LSA Associates, 20 Executive Park, Suite 200, Irvine, CA 92614

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 Michael Vidra, PE, QSD/QSP, LEED AP, Telephone (925) 787-4982, Email: mvidra@cswst2.com 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 Megha Bansal, Public Works Department, Engineering Services Division, 250 Hamilton Avenue, Palo Alto, CA, 94301, Telephone: (650) 329-2693, Email: megha.bansal@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 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.

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 (Wafivers).
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 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”.

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
- EXHIBIT E: DIR REGISTRATION FOR PUBLIC WORKS CONTRACTS
- EXHIBIT F: CLAIMS FOR PUBLIC CONTRACT CODE SECTION 9204 PUBLIC WORKS PROJECTS

THIS AGREEMENT IS NOT COMPLETE UNLESS ALL SELECTED EXHIBITS ARE ATTACHED.
CONTRACT NO. C22182372 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

CSW/STUBER-STROEH ENGINEERING GROUP INC.

Officer 1

By: ____________________________
   Robert Stevens, President
   /s/80641F2884A7

Name: Robert Stevens, President
Title: CEO/President

Officer 2

By: ____________________________
   Linda Schmid, CFO
   /s/8268970F8444

Name: Linda Schmid, CFO
Title: CFO

APPROVED AS TO FORM:

____________________________
City Attorney or Designee

Professional Services
Rev. Dec. 15, 2020
EXHIBIT A
SCOPE OF SERVICES

PROJECT DESCRIPTION:

CONSULTANT shall provide the Services detailed in this Exhibit A, entitled “SCOPE OF SERVICES”. The CITY intends to repurpose University Avenue Streetscape between Alma Street and Middlefield Road to facilitate people-centric activities and community programming using an urban design approach considering the architectural setting, landscape design, management, and user experience of the public spaces in the streetscape project area.

The CITY is awarding the Project’s Phase 1 scope of services under this Agreement as detailed below. The scope of services of any future phases (beyond Phase 1) as described in the Request for Proposals, if any such future phases are to proceed, would be developed and refined through future contract amendments. The CONSULTANT shall complete the following tasks:

PHASE 1 – UNIVERSITY AVENUE CONCEPTUAL PLAN:
Phase 1 Scope of Services includes the following tasks which will establish a preferred development plan for University Avenue through a public outreach process.

Task 1: Goals and Objectives

1. At project initiation, the CONSULTANT shall attend a kick-off meeting with CITY staff to review the project scope and general field conditions.

   The CONSULTANT shall provide a meeting agenda, schedule, and provide a summary of comments in an electronic format. An electronic format typically means Adobe Acrobat (PDF) document including the files in their native format.

2. The CONSULTANT shall work with CITY staff to design an engagement plan tailored to the community. The plan should identify the milestones and tasks for a successful outreach process. It should identify channels to share information about the project, possible events linkages or methods to distribute flyers. The plan should include strategies for reaching desired, but hard to access, audiences identified by the staff. To help refine this process, the CONSULTANT should organize two groups to hold walking tours and coordination meetings to focus on the planning effort. These groups would include:

   A. Technical Working Group: This group would include CITY staff including public works, economic development, planning department, Office of Transportation, and the police and fire departments as well as utility companies. The discussion would focus on alternatives to the corridor that are operationally feasible.
   
   B. University Avenue Working Group: This would include a focus group of representatives from the business community (block ambassadors), residents, and bicycle advocates that would help to refine the discussion on goals and objectives for the study and the future of University Avenue. This group would
support development of the presentations to commissions as well as the greater community.

At the conclusion of these meetings, the CONSULTANT should have an understanding of the community’s goals, which will help refine the data collection exercise.

The CONSULTANT shall provide a draft version and, after incorporating any CITY-requested feedback, a final version of the engagement plan in an electronic format.

**Task 2: Data Collection.** The CONSULTANT shall collect data as well as research best practices to develop an existing conditions assessment of University Avenue between Middlefield Road and Alma Avenue. This would include the following tasks:

A. **Existing Conditions Mapping:** The CONSULTANT shall supplement existing aerial photography and LIDAR data for University Avenue with supplemental field data of sufficient accuracy to illustrate locations of curbs and gutters, sidewalks, utility appurtenances, lights, traffic signals, striping, signage, buildings, street furnishings, and trees. This will include data collection approximately 100 feet down each cross street. The CONSULTANT shall plot the locations of utilities based on record information supplemented by field investigation including the direction of flow of gravity systems. This document will serve as the basis for investigation of alternatives for University Avenue.

The CONSULTANT shall develop the existing conditions mapping in AutoCAD 2019 format. CONSULTANT shall provide five (5) hard copy sets of the field survey (1 Draft Set/1 Final set upon CITY approval of Survey) – 24” x 36” sheets of consecutive plan view of roadway including sidewalks and building outlines and all intersections of University Avenue from Alma Street to Middlefield Road at a scale of 1” = 20’.

B. **Retail:** The CONSULTANT shall complete an assessment of the retail establishments within the project area to determine the name and type of retail for each property. The CONSULTANT shall identify if the property is vacant and if possible, the duration of vacancy.

The CONSULTANT shall present this information in both a narrative and exhibit electronic formats.

C. **Traffic:** The CONSULTANT shall provide a summary of “Main Street” transportation options related to road closure and parking implemented in other communities, including those related to other “slow streets” programs enacted during the Covid-19 pandemic. The CONSULTANT shall also provide a summary of how emerging trends such as automated vehicles and delivery devices, shared mobility, increased micro mobility usage, and curbside management implementation may influence future demand for transportation options on University Avenue.
In addition to referencing any available data, the CONSULTANT shall coordinate the collection of new 7-day automated tube counts identifying traffic volumes and speeds at up to six roadway segment locations anticipated to include at least one location each on University Avenue, Lytton Avenue, and Hamilton Avenue in the project area. Newly collected data should be compared to historical data to identify growth trends as well as a qualitative understanding of effects of the Covid-19 pandemic on traffic volumes in the downtown Palo Alto area. The CONSULTANT shall also coordinate collection of parking occupancy data on University Avenue within the project limits reflecting up to six hours within peak two peak periods.

Based on these assessments, the CONSULTANT shall complete a qualitative assessment of existing transportation conditions such as parking and travel delay along University Avenue. The assessment will serve as a baseline of comparison for alternatives to be developed in future phases.

The CONSULTANT shall summarize this information in a report presented in an electronic format.

D. Future of Transportation: The CONSULTANT shall hold a study session focused on emerging demographic, social and technological trends in Palo Alto and Santa Clara County that impact transportation. The CONSULTANT shall use their TrendLab+ tool to test the effects of emerging demographic, social and technological trends on mobility over the next 1, 5 and 10 years. This analysis shall include the ability to test the impacts of the Covid-19 pandemic and its economic consequences on mobility.

The CONSULTANT shall summarize this information in a presentation to the CITY using an online meeting platform.

E. Placemaking: The CONSULTANT shall capture the attributes of University Avenue that make it unique as well as those elements that can be leveraged in the streetscape design.
   - Visual landmarks and architectural characteristic of setting
   - Existing vocabulary of site furnishings (public or private)
   - Retail interface including overhangs into the right of way
   - Special attributes of each block – dog-friendly, bike parking, performance areas, gathering spaces, informational nodes, and art elements
   - Significant signage with each block and the use of outdoor spaces
   - Pedestrian connections to parking areas

The CONSULTANT shall summarize this information in a report presented in an electronic format.

F. Arborist Report. The CONSULTANT’s certified arborist shall conduct a field survey of the trees within and adjacent University Avenue that might be affected by project construction. The field survey shall consist of the following: identify tree species; determine if the tree is subject to Palo Alto’s tree preservation ordinance and CITY’s Tree
Technical Manual; measure the diameter; and evaluate its health.

The CONSULTANT shall summarize the information on a map and in a report presented in an electronic format.

**Task 3: Alternatives for University Avenue.** Based upon feedback received from various engagement groups and data collection, the CONSULTANT shall develop at least three alternative streetscape designs for University Avenue. The CONSULTANT shall use an urban design approach that emphasizes consideration of the architectural setting, landscape design, management, and user experience of the public spaces in the streetscape project area.

The alternatives shall each have a brand developed through streetscape components that create University Avenue as a destination for the community and potentially the region. The alternates shall respond to the nuanced attributes of each block. Each alternative shall include an assessment of the impact to traffic, parking, retail environment, deliveries, maintenance, multi-modal access, and safety. The CONSULTANT shall use these metrics to assign a benefit and cost to each option. For each alternative, the CONSULTANT shall develop a full color plan view, illustrative sections, and imagery of key elements as necessary to clearly describe the character of each alternative.

Because traffic and parking are likely to be concerns, the CONSULTANT shall complete both a qualitative and quantitative assessment of each alternative. The CONSULTANT shall review each alternative for operational function and safety at the key intersections between Alma Avenue and Middlefield Road. In addition, the CONSULTANT shall use the traffic model created to identify effects of partial or full-time roadway closures of University Avenue on Lytton and Hamilton Avenues.

The goal would be to develop a Preferred Community Plan Line alternative to advance to the design phase. The Preferred Community Plan Line alternative shall be developed through outreach meetings and input outlined in Task 5. It is possible that the project includes a near term alternative as well as a long-term plan for University Avenue that could be implemented if transportation and social changes continue as anticipated.

**Task 4: Costs, Funding, and Assessment Planning.** For each of the alternatives including the Community Preferred Plan Line alignment, the CONSULTANT shall develop a capital cost to construct improvements as well as work with CITY staff to identify maintenance assumptions and operating cost associated with proposed improvements including reserves based on amenity life cycles. The cost estimate shall include all relevant costs, including design, utility relocations, utility fees for services, construction contract, construction manager, escalation, and appropriate contingencies.

The CONSULTANT shall work with CITY staff to develop a funding plan to develop the Preferred Community Plan using local, County, State, and Federal sources. Additionally, the CONSULTANT shall develop a preliminary budget for an assessment district for funding and/or operation of the Preferred Community Plan by the property owners fronting the improvement area.
CONSULTANT shall prepare assessment analysis models to allocate these costs for businesses/property owners that benefit from the expanded space as follows:

A. Recommend and develop allocation of capital costs to property owners through at least two potential assessment district methodologies, assuming a 20-year debt service on borrowing for the capital costs. CITY will provide relevant parcel and building data for use in cost allocation.

B. Develop a model to allocate ongoing operating costs for maintenance to businesses using the newly activated University Avenue public space. The model shall include space available for constant use and, as applicable, street space made available through potential regular weekend closures.

The CONSULTANT shall support the CITY in discussions of the funding and assessment planning with business and property owners using the outreach process as outlined in Task 5. This process shall occur prior to presenting a draft plan to the Planning and Transportation Commission and CITY Council for review.

Task 5: Outreach. The CONSULTANT shall use a combination of electronic and in-person meetings to provide information and solicit feedback regarding the streetscape design and funding options. The CONSULTANT shall build on the engagement strategy defined in Task 1 with the support of the University and Technical Working Groups.

A. Website, Branding and Social Media. The CONSULTANT shall initiate the outreach program and develop a social media plan and calendar based on Palo Alto’s current preferred communication channels for specific audiences. All the outreach information should be on CITY’s website that will be directed to a project page on the CONSULTANT’s hosted website, where the community can take surveys/polls, review frequently asked questions, and stay abreast of the project evolution. The website shall promote a look that matches all marketing collateral related to the project to assist with recognition.

B. Meetings. The CONSULTANT shall conduct in-person or virtual outreach meetings per City’s input. For in-person outreach, the following meetings are anticipated.

<table>
<thead>
<tr>
<th>Meeting Name</th>
<th>External Outreach</th>
<th>Internal Outreach</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal Setting</td>
<td>University Working Group Walking Tour</td>
<td>Technical Working Group</td>
</tr>
<tr>
<td>Opportunities, Constraints, and ideas</td>
<td>University Working Group</td>
<td>Technical Working Group</td>
</tr>
<tr>
<td>Concept Alternatives</td>
<td>University Business Improvement District Community Meeting</td>
<td>Technical Working Group</td>
</tr>
<tr>
<td>Recommended Alternative</td>
<td>University Working Group Walking Tour University Business Improvement District Planning &amp; Transportation Commission Ped and Bike Commission Community Meeting</td>
<td>Technical Working Group</td>
</tr>
<tr>
<td></td>
<td>University Working Group Planning &amp; Transportation Commission City Council</td>
<td>Technical Working Group</td>
</tr>
</tbody>
</table>

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C. **Pop-ups.** To further advertise and solicit community input, the CONSULTANT shall plan to also engage the community where they are already gathering with booths at Farmers Market or a pop up along University Ave. The CONSULTANT shall solicit input at booths and direct public to website and public meeting.

D. **Notices.** CONSULTANT shall prepare all outreach, notices and meeting and presentation materials for stakeholder, community, and public meetings. Each meeting should be scheduled for four hours excluding travel time.

E. **Facilitation.** CONSULTANT shall provide meeting facilitators with expertise in engaging with multiple stakeholder groups with divergent interests.

**Phase 1 - Tasks 1 to 5 Deliverables:** The scope of work, above, notes deliverables included in the individual task. The following is a summary of the CONSULTANT’s deliverables to the CITY.

1. University Avenue mission statement documenting goal and objectives presented in a memorandum.
2. Base mapping of University Avenue presented as a drawing.
3. Traffic and parking data for the downtown presented as a report.
4. Retail types and occupancy survey presented as a report.
5. Potential alternatives for University Avenue illustrated in plans, illustrations, and narrative format.
6. Preferred Community Plan Line alternative for University Avenue – potentially illustrating development over time illustrated in plans, illustrations, and narrative format.
7. Capital and operational costs as well as funding strategies presented in a report format.
8. Two potential assessment district models for the Preferred Community Plan Line presented in a report format.
9. Website for the project.
10. Public meeting agendas, materials, and minutes including PowerPoint presentations, plans, handouts, reports, and boards.

1. **ADDITIONAL SERVICES: SUBJECT TO ADDITIONAL COMPENSATION, PER SECTION 4 (NOT TO EXCEED COMPENSATION) OF THIS AGREEMENT**

Additional Services, as defined in Section 4 (Not to Exceed Compensation) of this Agreement, may be required by City. Additional Services are subject to project manager approval via Task Order prior to starting on work, as detailed in said Section 4. Examples of potential Additional Services are as follows:

- Additional meetings and associated presentation materials with ARB, Council, public, and other coordination groups.
- Additional plan drawings and revisions

2. **INFORMATION AND SERVICES PROVIDED BY THE CITY OF PALO ALTO**

The CITY will provide the following during the design phase:
- Base Map from GIS for use in identifying City-Owned Utility Information;
- Survey and as-built information from the 2018 Upgrade Downtown Project (University Avenue from High Street to Webster Street)
- AutoCAD title block
- CITY Standard construction details and technical specifications for irrigation work, asphalt, concrete, sidewalk, curb and gutter, tree planting, landscaping and median details in AutoCAD
- CITY staff shall assist in obtaining design review documents from CITY staff for various Departments.
- CITY’s Draft Downtown Design Guidelines for reference purposes.
- Downtown parking data.
- Tax revenue for downtown retail businesses pre COVID-19 as well as pre, during, and post 2020 University Avenue closure. This data shall be general and not specific to any one business along the corridor to maintain confidentiality.

CONSULTANT is responsible for reviewing and verifying all supplied information.
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

BY: ____________________________
Name __________________________
Title __________________________
Date __________________________

APPROVED:
COMPANY NAME: __________________________

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

CONSULTANT shall perform the Services so as to complete each milestone within the number of days/weeks 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>Milestone</th>
<th>Completion Number of Days/ Weeks (as specific below) From NTP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goals and Objectives</td>
<td>45 working days</td>
</tr>
<tr>
<td>Completion of Data Collection</td>
<td>110 working days</td>
</tr>
<tr>
<td>Concept Alternatives</td>
<td>170 working days</td>
</tr>
<tr>
<td>Costs, Funding, and Assessment Planning</td>
<td>200 working days</td>
</tr>
<tr>
<td>Refined Alternatives</td>
<td>240 working days</td>
</tr>
<tr>
<td>Final Presentation to City Council</td>
<td>270 working days</td>
</tr>
</tbody>
</table>

☑ 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 rate schedule 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.

<table>
<thead>
<tr>
<th>BUDGET SCHEDULE</th>
<th>NOT TO EXCEED AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1: Goals and Objectives</td>
<td>$7,630</td>
</tr>
<tr>
<td>Task 2: Data Collection</td>
<td>$49,960</td>
</tr>
<tr>
<td>Task 3: Alternatives for University Avenue</td>
<td>$46,520</td>
</tr>
<tr>
<td>Task 4: Costs, Funding, and Assessment Planning</td>
<td>$11,116</td>
</tr>
<tr>
<td>Task 5: Outreach</td>
<td>$32,580</td>
</tr>
<tr>
<td>Subtotal for Services</td>
<td>$147,806</td>
</tr>
<tr>
<td>Reimbursable Expense</td>
<td>$2,060</td>
</tr>
<tr>
<td>Total for Services and Reimbursable Expenses</td>
<td>$149,866</td>
</tr>
<tr>
<td>Additional Services (if any, per Section 4)</td>
<td>$14,986</td>
</tr>
<tr>
<td>Maximum Total Compensation</td>
<td>$164,852</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 Travel and Printing up to the not-to-exceed amount of $2,060.00.

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.

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

CONSULTANT’s and SUBCONSULTANT’s schedules of rates are as follows:

CSW|ST2 Billing Rates (CONSULTANT)

### ENGINEERING SERVICES HOURLY RATES

<table>
<thead>
<tr>
<th>TITLE</th>
<th>RATE PER HOUR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior Engineer</td>
<td>$180.00</td>
</tr>
<tr>
<td>Engineer I, II, III</td>
<td>$129.00, $157.00, $175.00</td>
</tr>
<tr>
<td>Technician</td>
<td>$103.00</td>
</tr>
</tbody>
</table>

### SURVEY SERVICES HOURLY RATES

<table>
<thead>
<tr>
<th>TITLE</th>
<th>RATE PER HOUR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior Surveyor</td>
<td>$180.00</td>
</tr>
<tr>
<td>Surveyor I, II, III</td>
<td>$129.00, $157.00, $175.00</td>
</tr>
<tr>
<td>Technician</td>
<td>$118.00</td>
</tr>
<tr>
<td>Two Person Survey Party</td>
<td>$283.00</td>
</tr>
<tr>
<td>One Person Survey Party</td>
<td>$201.00</td>
</tr>
<tr>
<td>Aerial Drone Surveyor</td>
<td>$201.00</td>
</tr>
</tbody>
</table>

### OTHER PROFESSIONAL RATES

<table>
<thead>
<tr>
<th>TITLE</th>
<th>RATE PER HOUR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$235.00</td>
</tr>
<tr>
<td>Associate Principal</td>
<td>$221.00</td>
</tr>
<tr>
<td>Project Manager</td>
<td>$210.00</td>
</tr>
<tr>
<td>Construction Manager</td>
<td>$211.00</td>
</tr>
<tr>
<td>Resident Engineer</td>
<td>$155.00</td>
</tr>
<tr>
<td>Technical Writer</td>
<td>$124.00</td>
</tr>
<tr>
<td>Graphic Illustrator</td>
<td>$118.00</td>
</tr>
<tr>
<td>Project Assistant</td>
<td>$91.00</td>
</tr>
</tbody>
</table>
## Fehr and Peers Billing Rates (SUBCONSULTANT)

<table>
<thead>
<tr>
<th>TITLE</th>
<th>RATE PER HOUR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$325</td>
</tr>
<tr>
<td>Senior Associate</td>
<td>$255</td>
</tr>
<tr>
<td>Associate</td>
<td>$245</td>
</tr>
<tr>
<td>Senior Engineer/Planner</td>
<td>$190</td>
</tr>
<tr>
<td>Engineer/Planner</td>
<td>$165</td>
</tr>
<tr>
<td>Senior Engineering Technician</td>
<td>$170</td>
</tr>
<tr>
<td>Senior Project Accountant</td>
<td>$165</td>
</tr>
<tr>
<td>Senior Project Coordinator</td>
<td>$145</td>
</tr>
<tr>
<td>Project Coordinator</td>
<td>$135</td>
</tr>
<tr>
<td>Technician</td>
<td>$155</td>
</tr>
<tr>
<td>Intern</td>
<td>$115</td>
</tr>
</tbody>
</table>

## Gates and Associates Billing Rates (SUBCONSULTANT)

<table>
<thead>
<tr>
<th>TITLE</th>
<th>RATE PER HOUR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partner</td>
<td>$200.00</td>
</tr>
<tr>
<td>Principal</td>
<td>$185.00</td>
</tr>
<tr>
<td>Associate Principal</td>
<td>$175.00</td>
</tr>
<tr>
<td>Senior Associate</td>
<td>$145.00</td>
</tr>
<tr>
<td>Job Captain</td>
<td>$135.00</td>
</tr>
<tr>
<td>Irrigation Design Technician</td>
<td>$195.00</td>
</tr>
<tr>
<td>Sr. Visual Communications Designer</td>
<td>$145.00</td>
</tr>
<tr>
<td>Community Outreach Facilitator</td>
<td>$150.00</td>
</tr>
<tr>
<td>Marketing Coordinator</td>
<td>$125.00</td>
</tr>
<tr>
<td>Administrative/Drafter</td>
<td>$120.00</td>
</tr>
</tbody>
</table>
## LSA Billing Rates (SUBCONSULTANT)

<table>
<thead>
<tr>
<th>TITLE</th>
<th>RATE PER HOUR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$250.00</td>
</tr>
<tr>
<td>Project Manager</td>
<td>$170.00</td>
</tr>
<tr>
<td>Associate Biologist</td>
<td>$165.00</td>
</tr>
<tr>
<td>Senior Botanist</td>
<td>$120.00</td>
</tr>
<tr>
<td>Associate Cultural Resources</td>
<td>$140.00</td>
</tr>
<tr>
<td>Archeologist</td>
<td>$85.00</td>
</tr>
<tr>
<td>Principal Noise</td>
<td>$245.00</td>
</tr>
<tr>
<td>Senior Planner Noise</td>
<td>$145.00</td>
</tr>
<tr>
<td>Transportation</td>
<td>$200.00</td>
</tr>
<tr>
<td>GIS/ Graphics</td>
<td>$150.00</td>
</tr>
<tr>
<td>Technical Editor</td>
<td>$125.00</td>
</tr>
</tbody>
</table>
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>YES</td>
<td>WORKER’S COMPENSATION EMPLOYER’S LIABILITY</td>
<td>STATUTORY STATUTORY</td>
<td>STATUTORY STATUTORY</td>
</tr>
<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>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PROPERTY DAMAGE</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>BODILY INJURY &amp; PROPERTY DAMAGE COMBINED</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>YES</td>
<td>AUTOMOBILE LIABILITY, INCLUDING ALL OWNED, HIRED, NON-OWNED</td>
<td>BODILY INJURY</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- EACH PERSON</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- EACH OCCURRENCE</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PROPERTY DAMAGE</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>BODILY INJURY AND PROPERTY DAMAGE, COMBINED</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>YES</td>
<td>PROFESSIONAL LIABILITY, INCLUDING, ERRORS AND OMISSIONS, MALPRACTICE (WHEN APPLICABLE), AND NEGLIGENT PERFORMANCE</td>
<td>ALL DAMAGES</td>
<td>$1,000,000</td>
</tr>
</tbody>
</table>

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.

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**
EXHIBIT E
DIR REGISTRATION FOR PUBLIC WORKS CONTRACTS

This Exhibit shall apply only to a contract for public works construction, alteration, demolition, repair or maintenance work, CITY will not accept a bid proposal from or enter into this Agreement with CONSULTANT without proof that CONSULTANT and its listed subcontractors are registered with the California Department of Industrial Relations (“DIR”) to perform public work, subject to limited exceptions. City requires CONSULTANT and its listed subcontractors, if any, to comply with all applicable requirements of the California Labor Code including but not limited to Labor Code Sections 1720 through 1861, and all applicable related regulations, including but not limited to Subchapter 3, Title 8 of the California Code of Regulations Section 16000 et seq., as amended from time to time. This Exhibit E applies in addition to the provisions of Section 26 (Prevailing Wages and DIR Registration for Public Works Contracts) of the Agreement.

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

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

This Project is subject to compliance monitoring and enforcement by DIR. All contractors must be registered with DIR per Labor Code Section 1725.5 in order to submit a bid. All subcontractors must also be registered with DIR. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with DIR. Additional information regarding public works and prevailing wage requirements is available on the DIR web site (see e.g. http://www.dir.ca.gov) as amended from time to time.

CITY gives notice to CONSULTANT and its listed subcontractors that CONSULTANT is required to post all job site notices prescribed by law or regulation.

CONSULTANT shall furnish certified payroll records directly to the Labor Commissioner (DIR) in accordance with Subchapter 3, Title 8 of the California Code of Regulations Section 16461 (8 CCR Section 16461).

CITY requires CONSULTANT and its listed subcontractors to comply with the requirements of Labor Code Section 1776, including but not limited to:

Keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per
Diem wages paid to each journeyman, apprentice, worker, or other employee employed by, respectively, CONSULTANT and its listed subcontractors, in connection with the Project.

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

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

☐ CITY requests CONSULTANT and its listed subcontractors to submit the certified payroll records to CITY’s Project Manager at the end of each week during the Project.

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

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

Eight (8) hours labor constitutes a legal day’s work. CONSULTANT shall forfeit as a penalty to CITY, $25.00 for each worker employed in the execution of the Agreement by CONSULTANT or any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day or forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular, Sections 1810 through 1815 thereof, except that work performed by employees of CONSULTANT or any subcontractor in excess of eight (8) hours per day, or forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day, or forty (40) hours per week, at not less than one and one-half (1&1/2) times the basic rate of pay, as provided in Section 1815.

CONSULTANT shall secure the payment of workers’ compensation to its employees as provided in Labor Code Sections 1860 and 3700 (Labor Code 1861). CONSULTANT shall sign and file with the CITY a statutorily prescribed statement acknowledging its obligation to secure the payment of workers’ compensation to its employees before beginning work (Labor Code 1861). CONSULTANT shall post job site notices per regulation (Labor Code 1771.4(a)(2)).

CONSULTANT shall comply with the statutory requirements regarding employment of apprentices including without limitation Labor Code Section 1777.5. The statutory provisions will be enforced for penalties for failure to pay prevailing wages and for failure to comply with wage and hour laws.
EXHIBIT F
CLAIMS FOR PUBLIC CONTRACT CODE SECTION 9204 PUBLIC WORKS PROJECTS

The provisions of this Exhibit are provided in compliance with Public Contract Code Section 9204; they provide the exclusive procedures for any claims pursuant to Public Contract Code Section 9204 related to the Services performed under this Agreement.

1. Claim Definition. “Claim” means a separate demand by the Contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by the City.
(B) Payment by the City of money or damages arising from the Services performed by, or on behalf of, the Contractor pursuant to the Agreement and payment for which is not otherwise expressly provided or to which the Contractor is not otherwise entitled.
(C) Payment of an amount that is disputed by the City.


(A) Timing. Any Claim must be submitted to City in compliance with the requirements of this Exhibit no later than fourteen (14) days following the event or occurrence giving rise to the Claim. This time requirement is mandatory; failure to submit a Claim within fourteen (14) days will result in its being deemed waived.

(B) Submission. The Claim must be submitted to City in writing, clearly identified as a “Claim” submitted pursuant to this Exhibit, and must include reasonable documentation substantiating the Claim. The Claim must clearly identify and describe the dispute, including relevant references to applicable portions of the Agreement, and a chronology of relevant events. Any Claim for additional payment must include a complete, itemized breakdown of all labor, materials, taxes, insurance, and subcontract, or other costs. Substantiating documentation such as payroll records, receipts, invoices, or the like, must be submitted in support of each claimed cost. Any Claim for an extension of time or delay costs must be substantiated with schedule analysis and narrative depicting and explaining claimed time impacts.

(C) Review. Upon receipt of a Claim in compliance with this Exhibit, the City shall conduct a reasonable review of the Claim and, within a period not to exceed 45 days from receipt, shall provide the Contractor a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Upon receipt of a Claim, the City and Contractor may, by mutual agreement, extend the time period provided in this paragraph 2.

(D) If City Council Approval Required. If the City needs approval from the City Council to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the Claim, and the City Council does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a Claim sent by registered mail or
certified mail, return receipt requested, the City shall have up to three days following the next duly publicly noticed meeting of the City Council after the 45-day period, or extension, expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.

(E) Payment. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the City issues its written statement. If the City fails to issue a written statement, paragraph 3, below, shall apply.

3. Disputed Claims

(A) Meet and Confer. If the Contractor disputes the City's written response, or if the City fails to respond to a Claim submitted pursuant to this Exhibit within the time prescribed, the Contractor may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the City shall schedule a meet and confer conference within 30 days for settlement of the dispute. Within 10 business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, the City shall provide the Contractor a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the City issues its written statement.

(B) Mediation. Any remaining disputed portion of the Claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with the City and the Contractor sharing the associated costs equally. The City and Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the Claim has been identified in writing by the Contractor. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the Claim remaining in dispute shall be subject to any other remedies authorized by the Agreement and laws.

(i) For purposes of this paragraph 3.B, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(ii) Unless otherwise agreed to by the City and the Contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation, if any, under Public Contract Code Section 20104.4 to mediate after litigation has been commenced.

4. City’s Failure to Respond. Failure by the City to respond to a Claim from the Contractor within the time periods described in this Exhibit or to otherwise meet the time requirements of this Exhibit shall result in the Claim being deemed rejected in its entirety. A Claim
that is denied by reason of the City’s failure to have responded to a Claim, or its failure to otherwise meet the time requirements of this Exhibit, shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the Contractor.

5. Interest. Amounts not paid in a timely manner as required by this section shall bear interest at seven (7) percent per annum.

6. Approved Subcontractor Claims. If an approved subcontractor or a lower tier subcontractor lacks legal standing to assert a Claim against the City because privity of contract does not exist, the Contractor may present to the City a Claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the Contractor present a Claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the Claim be presented to the City shall furnish reasonable documentation to support the Claim. Within 45 days of receipt of this written request, the Contractor shall notify the subcontractor in writing as to whether the Contractor presented the claim to the City and, if the Contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

7. Waiver of Provisions. A waiver of the rights granted by Public Contract Code Section 9204 is void and contrary to public policy, provided, however, that (1) upon receipt of a Claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) the City may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of Public Contract Code Section 9204, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.
Meeting Date: 2/28/2022

Title: PUBLIC HEARING: Objections to Weed Abatement and Adoption of a Resolution Ordering Weed Nuisance Abated

From: City Manager

Lead Department: Fire

Recommendation
Staff recommends that Council hold a Public Hearing to hear and consider any objections to the proposed destruction and removal of weeds and adopt the Resolution (Attachment A) ordering the abatement of weed nuisances in the City of Palo Alto.

Executive Summary
The City of Palo Alto contracts with Santa Clara County Agriculture and Resource Management to remove and destroy weeds, as defined in Palo Alto Municipal Code Chapter 8.08. This hearing allows all those affected and listed on the County’s 2022 Weed Abatement Program Commencement Report (Attachment B) to be heard and have their objections and comments considered by the Council before the Council adopts a Resolution ordering the abatement of weed nuisances in the City.

An overview of the program and annual calendar for the steps involving City Council action is provided in Attachment C.

Background
The Council adopted Resolution 13895 on January 24, 2021, and declared weeds to be a nuisance, and ordered the abatement of that nuisance as called for in Palo Alto Municipal Code Chapter 8.08 (Linked Here). Resolution 13895 provided for a public hearing date of February 28, 2022, and required notice to interested property owners and the public.

Discussion
The Santa Clara County Department of Agriculture and Resource Management maintains the contract for abatement of weeds within the City of Palo Alto. Upon notification of the City Council’s January 24, 2022, declaring weeds to be a nuisance and ordering abatement thereof, the Department of Agriculture and Resource Management took steps to notify each property owner by mail of the proposed weed abatement action on respective properties and posted, on the public notice bulletin board, a list of the properties affected. The Department of
Agriculture and Resource Management has furnished copies of the property listing to the City Clerk and the City Fire Marshal. The City Clerk also posted and published notice of the hearing as required.

At this public hearing, property owners may appear and object to the proposed weed destruction or removal. After the hearing and consideration of any objections, the Council may sustain or overrule any or all objections. If objections are sustained, the Council may remove properties from the weed abatement commencement report. Upon adoption of the Resolution confirming the weed abatement commencement report and ordering weed nuisances abated, the County will be asked to perform the abatement work to destroy and remove any weeds.

Resource Impact
All charges for the weed abatement services are included as a special assessment on bills for property taxes levied against the respective lots and parcels of land, which are considered liens on these properties.

Policy Implications
This procedure is consistent with existing City policies and Municipal Code Chapter 8.08.

Stakeholder Engagement
The Council adopted Resolution 13895 on January 24, 2022 declaring weeds to be a nuisance and ordering the abatement of that nuisance as called for in Palo Alto Municipal Code Chapter 8.08.

The Commencement Report was posted publicly in Palo Alto on February 17, 2022.

The notices for the City Council’s February 28, 2022 public hearing ran in the newspaper on February 17, 2022 and February 25, 2022, and the SCCDEH weed abatement program mailed out notice of the public hearing, to all addresses on the commencement list on January 31, 2022.

Environmental Review
Santa Clara County has determined the Weed Abatement Program to be Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA guidelines Sections 15308.

Attachments:
- Attachment11.a: Attachment A: Resolution
- Attachment11.b: Attachment B: 2022 Palo Alto Commencement Report
- Attachment11.c: Attachment C: CPA Weed Abatement 3.0
Resolution No. 9938
Resolution of the Council of the City of Palo Alto Ordering
Weed Nuisance Abated

RECITALS

A. On December 14, 2020 the Palo Alto City Council adopted Resolution No. 9931 declaring weeds to be a nuisance and setting January 11, 2021 at 6:00 p.m. or as soon thereafter as the matter may be heard, in the Civic Center as the time and place for a hearing of objections to the proposed destruction and removal of weeds; and

B. In accordance with said Resolution, notice of such hearing was given in the manner provided by law, as appears from the affidavits on file in the Office of the City Clerk; and

C. All persons desiring to be heard were given an opportunity to be heard, and all matters and things pertaining to said weed abatement were fully heard and considered by this Council.

NOW, THEREFORE, the Council of the City of Palo Alto RESOLVES as follows:

SECTION 1. Objections are sustained for the following addresses, which have been removed from the 2021 Weed Abatement Commencement Report: 419 Wilton, 2660 Bryant, 2349 Greer, 3640 Lupine Avenue, 498 Loma Verde, 2808 Bryant, 84 Roosevelt, 3732 Staff King, 3738 Starr King, 289 Fernando, 31 Primrose, 1071 Embarcadero, 864 Embarcadero, 128 Kingsley, 2671 Bryant, 3550 Park, 365 Wilton, 452 Fernando, 3130 Ramona, 3070 Middlefield, 2620 Middlefield, 649 Maybell, 4137 Donald, 895 Mockingbird, and 3000 Alexis. All other objections to the proposed destruction and removal of such weeds are overruled.

SECTION 2. The Fire Chief hereby is ordered to do all things necessary and authorized in Chapter 8.08 of the Palo Alto Municipal Code to abate such nuisance, or cause the same to be abated by contract with the County of Santa Clara.
SECTION 3. The County of Santa Clara as lead agency has determined that this project is exempt from the provisions of the California Environmental Quality Act (“CEQA”) under CEQA Guidelines Section 15308 as an action by regulatory agencies authorized by state or local ordinance to assure the maintenance, restoration, enhancement, or protection of the environment.

INTRODUCED AND PASSED: March 1, 2021

AYES: BURT, CORMACK, DUBOIS, FILSETH, KOU, STONE, TANAKA

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Assistant City Attorney

APPROVED AS TO FORM:

APPROVED:

City Manager

Fire Chief

Director of Administrative Services
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| City Clerk |  | |
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City of Palo Alto Weed Abatement

The City of Palo Alto contracts with the Santa Clara County Department of Agriculture and Environmental Management (SCCDAEM) to remove and destroy weeds in its efforts to mitigate potential fire hazards (as defined in Palo Alto Municipal Code Chapter 8.08). The entire weed abatement program is coordinated by the SCCDAEM. Abatement proceedings must follow a legally established course. This is an annual process with weed abatement occurring in late Spring. City of Palo Alto involvement is limited to the following 3 steps for City Council:

1) (Nov-Dec) City of Palo Alto Declares Weeds a Nuisance to allow for County abatement and sets a later date (Jan-Feb) for a public hearing to review the Annual Commencement Report (list of “nuisance” parcels).

2) (Jan-Feb) Public Hearing to review the Annual Commencement Report and approve the County abatement proceedings. At this public hearing, property owners may appear and object to the proposed weed destruction or removal. After the hearing and consideration of any objections, the Council may sustain or overrule any or all objections. Upon adoption of the resolution confirming the weed abatement commencement report and ordering weed nuisances abated, the County will be asked to perform the abatement work to destroy and remove any weeds.

3) (June) Public Hearing to approve the invoices for the abatement work performed by the SCCDAEM.

The Santa Clara County Weed Abatement Program

The Santa Clara County Department of Agriculture and Environmental Management and the City of Palo Alto work together to protect our community from fire. The purpose of the Weed Abatement Program is to prevent fire hazards posed by vegetative overgrowth and the accumulation of combustible materials.

Typically, a property is placed on the program list by a County Weed Abatement Inspector who identifies a potential fire hazard on the property. The Palo Alto Fire Department (PAFD) & Code Enforcement also report addresses of concern and forward (verified) complaints from residents to the SCCDAEM. Residents can report addresses of concern to PAFD, code enforcement, or directly to the County Weed Abatement Program.

Santa Clara County program staff annually inspect “nuisance” parcels at the beginning of the fire season, which is typically April 30th for CPA parcels.

The Weed Abatement program is entirely funded from fees charged to residents. All parcels on the list will be charged a basic inspection fee. If the parcel is not in compliance at the time of inspection, the property owner will be charged an additional failed inspection fee, and they will receive a final courtesy notice as a reminder to abate their weeds within 2 weeks.

If the weeds are not abated by the property owner, the work will be completed by the County contractor. The property owner will pay the contractor’s fees plus a County administrative fee. All fees will be included in their property tax bill.
Properties that meet and maintain the minimum fire safety standards will only be charged for the annual fee. These properties will be removed from the list after three years of compliance.
City of Palo Alto
City Council Staff Report

Report Type: Action Items  
Meeting Date: 2/28/2022

Summary Title: Grand Jury Report Responses

Title: Discussion and Direction on Draft Response to the Santa Clara County Civil Grand Jury Report Published December 16, 2021 Pertaining to Affordable Housing and Potential Direction to Staff on Related Policies.

From: City Manager

Lead Department: Planning and Development Services

This report will be a special late packet release on Thursday, February 24th, 2022.
City of Palo Alto
City Council Staff Report

Report Type: Action Items  Meeting Date: 2/28/2022

Summary Title: California Avenue Temporary and Permanent Street Closure

Discussion
Title: California Avenue and Ramona Street Temporary and Permanent Closure: Direct Staff to Issue RFP for a Feasibility Study and Return for Contract Approval, and Provide Direction to Staff on Activities and Programming (Continued from the February 7, 2022 meeting)

From: City Manager

Lead Department: Planning and Development Services

** This item was continued from the February 7, 2022 meeting

Recommendation:
Staff recommends that the City Council:

I. Direct staff to issue a Request for Information (RFI) and/or Request For Proposals (RFP) to obtain a consultant to conduct a feasibility study to define the scope and understand the impact of the proposed permanent closure(s) on portions of California Avenue from El Camino Real to Park Blvd. and the section of Ramona Street between Hamilton Avenue and University Avenue.

II. Direct staff to return to Council for approval of the contract for the feasibility study and to provide a schedule.

III. Discuss and provide direction regarding activities in the temporarily closed portion of California Avenue (from El Camino Real to Park Blvd.).

Executive Summary:
This report provides information on next steps that would be necessary to evaluate and determine the feasibility of moving forward with permanent closure(s) of portions of California Avenue and Ramona Street and seeks the City Council’s direction on next steps.

Background:
On September 13, 2021, City Council authorized staff to extend the closure of California Avenue and Ramona Street through June 2022 (CMR 13540). At the same Council meeting, the Council directed staff to return for discussion on the permanent street closures. On June 22, 2021, Council also directed staff to return to the City Council for further discussion regarding additional elements on the California Ave street closure, referring to the area closed through June 2022 for outdoor retail and dining (CMR 12354). Specifically, Council directed “Staff to include in its workplan for streetscape design on California Avenue, have Staff return with a process recommendation to pursue a pro-bono design expertise such as AIA, ARB or others, and to include an evaluation of potential sites for permanent performance stages in other potential areas such as downtown.”

Discussion:
City Council directed staff to return for a discussion on permanent street closures. This report outlines the next steps that would be necessary to proceed forward. While the City’s authority to close streets to vehicular traffic is regulated by the State, the decision to pursue closure of a street under the prescribed state processes rests with the Palo Alto City Council. The policy decision incorporates balancing numerous factors to determine the avenue most appropriate for the City. To aid Council in its discussion, staff have outlined several policy considerations.

Community and Economic Recovery
The closure of certain public streets to vehicular traffic was a step taken by the City Council near the beginning of the pandemic to provide outdoor areas for retail, dining, and other activities (gyms, etc.). These efforts help maintain access to local goods, services, and dining. The closures of certain streets also aided some businesses in remaining open, especially restaurants, because patrons could dine outdoors.

While the pandemic is not “over”, experts have suggested due to highly effective vaccines, the pandemic is shifting into a new phase. In this phase, Americans are working to re-establish normalcy; and normalcy itself has adjusted. The experiment with closed streets proved to be very popular with Palo Alto residents, with thousands corresponding to Council requesting the street closures continue. Continuation of the closures temporarily and contemplation of permanent closures may represent a “new normal” in Palo Alto. Not only loved by many in the community, the potential new normal provides economic benefits to local businesses, especially restaurants. Not only because it creates an enhanced opportunity for al fresco dining, but also because the closed portions of streets contribute to a strong sense of place that attracts diners and shoppers alike, helping generate businesses activity (that in turn generates tax revenue).

Maintaining Access
Council is aware, however, that all businesses do not benefit equally from street closures. As the City explores this topic, Council may consider various combinations of closing portions of
California Avenue and Ramona Street. The closures may be 24 hours a day, 7 days a week (ongoing and continuous), the closures might occur regularly during certain hours (weekends), or the ultimate decision could result in maintaining some vehicular access but significantly decreasing the right of way available for motorized vehicles.

In each of these options, the City should aim to improve the conditions for all stakeholders—from restaurants to retailers, grocery stores to financial institutions. Ensuring that customers of all abilities and transportation modes can continue to access goods and services throughout the areas is important and can be accomplished through careful and thoughtful planning.

**Use of Public Space**

One of the overarching policy decisions for the Council is how the City should use its public space. There are at least two dimensions of this decision. First, who will be occupying the street? Some cities are closing streets for pedestrian activities, others to promote economic activity. Second, the City will want to determine if and how to allow the use of this public space by private businesses. During the pandemic, the City has allowed the use of public space by private establishments through no cost encroachment permits. If the streets are closed on a more permanent basis, the City will need to determine if space can continue to be used by private establishments and the terms of that use.

These specific decisions do not need to be resolved immediately, as the first overall choice is whether or not to investigate permanent closures. Yet, being clear that a potential use of public right of way by private establishments that provide goods or services is a likely use of spaces, allows staff to work with consultants and other experts as well as stakeholders in future discussions.

Future choices related to this include establishing the cost of using public space; establishing a permitting process for use of public space; and determining procedures to ensure that even if some portions of road include private uses, that the public has ample access to enjoy the street. The City’s authority to close streets to vehicular traffic is regulated by the State. The State has preempted the entire field of traffic control (Vehicle Code Section 21). As a result, the right of local authorities to make changes affecting traffic flow, such as closing a street, must be derived from an express delegation of authority from the State. Staff explored various statutes that allow for such authority to the local agencies. The following statutes describe the authority that allows local agencies to close streets on a temporary or permanent basis:

- **Temporary Street Closures (including regular/frequent closures on long-term basis)**

  The *State of California’s Vehicle Code (CVC) 21101 (e)*: [CVC Section 21101(e)](https://www.legaltree.us/codes/california/cvc/) allows for local authorities to temporarily close a portion of any street for celebrations, parades, local special events, and other purposes by adoption of a resolution when the closing is
necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing. The current closure of street is temporary as a result of the State of Emergency due to the COVID-19 pandemic and the need to support the economic recovery of the businesses on California Street, Ramona Avenue, and University Avenue.

With regards to the permanent closure of streets, staff will consider various available statutes within the State Codes that delegate to the City the authority to permanently close streets. The first step in this process will be conducting a feasibility study, which will help staff determine which statute might be the most feasible.

For reference, the different state statutes describing the process for road closures are listed as follows:

- **Permanent Street Closures**
  
  i. The State of California's Streets and Highways Code 11100 et seq. Provides local agencies with the authority to establish pedestrian malls and to prohibit, in whole or in part, traffic on a pedestrian mall. The legislature found that in certain areas in cities and particularly in retail shopping areas, there is need to separate pedestrian travel from vehicular travel and that such separation is necessary to protect the public safety or otherwise to serve the public interest and convenience. The legislature further found that such objective can, in part, be accomplished by the establishment of pedestrian malls pursuant to this part.

  ii. The State of California's Vehicle Code (CVC) 21101(a): CVC 21101 (a) allows for the permanent closure of a street if the City Council adopts an ordinance or resolution that finds the street is no longer needed for vehicular traffic.

  iii. The State of California's Vehicle Code (CVC) 21101 (f): CVC 21101 (f) allows for the permanent closure of the streets and prohibiting entry to, or exit from, or both, from any street by means of islands, curbs, traffic barriers, or other roadway design features to implement the circulation element of a general plan adopted pursuant to Article 6 (commencing with Section 65350) of Chapter 3 of Division 1 of Title 7 of the Government Code. The rules and regulations authorized by this subdivision shall be consistent with the responsibility of local government to provide for the health and safety of its citizens.

  iv. The State of California’s AB 773: Recently, on October 6, 2021, the California Legislature passed the Assembly Bill 773 to create a new CVC Section 21101 (f) to authorize a local authority to adopt a rule or regulation by ordinance for
implementing a slow streets program. This legislation became effective in January 2022. For purposes of this section, a “slow streets program” may include closures to vehicular traffic or through vehicular traffic of neighborhood local streets with connections to citywide bicycle networks; destinations, such as a business district, that are within walking distance; or green space. A local authority therefore may implement a slow streets program by adopting an ordinance that provides for the closing of streets to vehicular traffic or limiting access and speed on a street using roadway design features, including, but not limited to, islands, curbs, or traffic barriers.

Street Closure Next Steps:

Feasibility Study: In order to initiate permanent street closure, staff recommends conducting a feasibility study to define the scope and to understand the impact of the proposed closure. This exercise shall also include developing conceptual plans with possible alternatives. The feasibility study shall review the existing conditions, traffic circulation, and its impacts to access for properties in the proposed segments. The traffic analysis shall include but is not limited to analysis of traffic circulation, access to properties, emergency access, parking, loading-unloading, delivery, access for maintenance of utilities, impacts to signal operations, etc. Parking impacts in the area and surrounding areas will need to be studied. In addition, the feasibility study can also include economic analysis to determine the potential impacts on business based on similar implementations in other cities. Outreach to stakeholders and the public should also be considered as part of this feasibility study.

The feasibility study may include a component to review the impacts of long-term temporary closures such as seasonal closures or regular weekend closures, in the event such options are considered for implementation.

Environmental Documentation Review & Preparation: After reviewing the feasibility study and selection of preferred closure option by City Council, the next step will be consideration and preparation of the required environmental approval necessary under California Environmental Quality Act (CEQA).

Resolution of Intent & Public Hearing: The next step in the process is the adoption of resolution of intent which sets a public hearing date for the consideration of the street closure. The public hearing date must be set for at least 90 days after the adoption of the resolution of intent.

Adoption of the Ordinance: The last step is the introduction of an ordinance to establish the pedestrian mall and any related regulations governing the use of the roadway. Any
objections from the abutting property owners must be resolved, and the majority of property owners must not object to moving forward on street closure.

Placemaking, such as determining possible locations for permanent performance stages, would occur after a feasibility study during conceptual plan development of the street closure. Considerations such as responsibility for programming, design, and operating costs will also need to be addressed.

**Actions on Similar Permanent Street Closures in Other Nearby Cities**

As the Council considers whether or not to pursue longer-term closures, the actions of nearby cities may provide insight. Staff reviewed actions of several neighboring cities and provide a summary below.

- **City of Mountain View:** On October 12, 2021, the City Council of Mountain View conducted a study session to review the Castro Street Pedestrian Mall Feasibility Study. The City was considering closure of Castro Street prior to the pandemic and was authorized to conduct a feasibility study on December 10, 2019 ([link to City of Mountain View staff report](#)).

- **City of San Mateo:** On September 20, 2021, City Council adopted a resolution to establish pedestrian malls on B Street between 1st and 2nd Avenues and on B Street between 2nd and 3rd Avenues and introduced an Ordinance to amend the San Mateo Municipal Code to establish rules and regulations governing pedestrian malls ([link to City of San Mateo staff report](#)). The public hearing for resolution of intent to establish a pedestrian mall was conducted on June 21, 2021.

- The City and County of San Francisco has considered making some residential low-volume streets as “Slow Streets” in post-pandemic times. The information about San Francisco’s Slow Street program can be found at San Francisco Municipal Transportation Agency (SFMTA) [Post Pandemic Slow Street Program](#).

**Temporary California Avenue Street Closures**

Currently, California Avenue from El Camino Real to Birch Street remains closed to vehicular traffic. The Public Works Department continues to work with permit holders to ensure their temporary facilities (tables, chairs, canopies, etc.) comply with standards established by the City. Staff recommend continuing to allow the permit holders to continue as-is as the exploration of permanent closure continues. This allows staff energies to focus on that effort.

Stakeholders have provided testimony to City Council regarding a desire for more aesthetic cohesion among the establishments. Creating more cohesion would require aesthetic
standards, new applications, review of compliance with the standards, and possibly installation of new temporary facilities by private establishments. Staff recommends focusing California Avenue energies on the design of the permanent parklet program as well as other public and privately-owned street features. Working with the ARB, local businesses, and community members, the City can create a unique permanent parklet program that enhances the streetscape and pedestrian environment along California Avenue. This discussion could also include consideration of minor streetscape improvements that take into account the significant investment already made in the recent California Avenue Streetscape project.

The permanent closure, if ultimately pursued, could and likely should include development of aesthetic guidelines leading to an even stronger sense of place on California Avenue. The timing of the development of these guidelines may be best placed as part of the permanent closure discussion, instead of the temporary program.

In the interim, the City may continue to collaborate with the local business community by providing street cleaning services, tree and shrub maintenance, public safety services, and by facilitating events and attractions. In the past, public art has been used to attract visitors, the city is currently collaborating with local merchants to place seasonal winter decorations on Cal Ave. Efforts to facilitate public performances of music can also be undertaken in collaboration.

In sum, staff recommend focusing in the short term on flexible opportunities for collaboration that do not entail major capital outlay for the City or for permit holders. Likewise, focusing energies of the Office of Transportation on the exploration of the permanent closure and the energy of Planning and Development Services—and other departments—along with ARB on the permanent parklet standards, can ensure that public resources are sequentially allocated. Perhaps more simply put: establishing long term standards for what remains a temporary closure may be ill-timed.

Policy Implications:
Overall, the street closure topic reflects a decision about how best to use public space, in this case, the public roadways. Key considerations include determining if the space will include facilities for pedestrians and bicycles and if private businesses will be charged to utilize the public space.

Resource Impact:
The permanent street closure of California Avenue and Ramona Street is not currently included in the Office of Transportation Work Plan or FY 2022 budget. Should Council wish to pursue studying the feasibility of any street closure options, reprioritization of current work and staff augmentation through contract consultant and additional budgetary amount authority will be necessary. Staff estimates the additional amount to range from $300K - $500K for conducting
This feasibility study. Staff will return to Council for review and approval of any such contract before awarding.

Regarding the ongoing street closures that are set to continue through June 2022, the City is challenged to consider how to best allocate existing staff resources to achieve City Council priorities. Community and economic recovery remains a key Council priority in 2021. To further this priority, staff recommend focusing resources on the long term parklet standards. These standards, if adopted, could enhance and enliven California Avenue in 2022 and beyond.

If Council seeks additional efforts for the current closure area, staff request guidance. Staff may return with a resource request depending on the direction expressed by City Council. If funds are allocated, time and availability of human resources—both staff and consultant—may delay the commencement of assigned work.

**Timeline:**
Staff will initiate an RFI/RFP process following Council approval and return for review and approval of the contract.

**Stakeholder Engagement:**
The opinions of stakeholders have not shifted significantly since the Council’s last discussion of this matter. Generally speaking, owners of restaurants located within the closed streets along Ramona Street and on California Avenue prefer the closures. Due to the rise in delta variant, they report that fewer diners want to eat indoors. Likewise, retail and retail-like uses generally prefer the streets be opened to vehicular traffic. These businesses feel restaurants have had a chance to use the streets and that now, more balance is needed. These businesses also point out that through parklets, these restaurants can continue outdoor meal service. Retailers continue to report diminished sales and indicate the street closure contributes to these decreased sale volumes. While there are fewer retailers in the Cal Ave closure, retailers within and around the closure report challenges they attribute to the closure. Palo Alto residents continue to support continuation of the street closures.

With the onset of the COVID-19 pandemic in early 2020, the City Council authorized the creation of a Temporary Outdoor Dining program, including the approval of the temporary closure of portions of California Avenue, University Avenue, and Ramona Street. Uplift Local, a Council-supported effort enabling outdoor dining, retail, personal services, and outdoor gyms and fitness options in business districts such as California Avenue and the downtown core and other business areas throughout Palo Alto was created. A dedicated Uplift Local website provided information to the community. This program continues to evolve based on business and community input. Staff has been meeting with the community regularly to seek feedback from the business owners and residents to address concerns associated with outdoor dining program and street closures. While there are fewer retailers in the Cal Ave closure, retailers...
within and around the closure report challenges they attribute to the closure. Palo Alto residents continue to support continuation of the street closures.

However, during the study of the feasibility of permanent closure, additional stakeholder outreach will be necessary.

**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 would be subject to CEQA and require the preparation of an environmental analysis. Environmental review and project design will be performed in the subsequent steps of the project development.
Schedule of Meetings
Published February 17, 2022

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.

THURSDAY, FEBRUARY 17
Public Art Commission Meeting, 7 p.m.

MONDAY, FEBRUARY 21
City Council Meeting, 6 p.m. (CANCELLED DUE TO HOLIDAY)

TUESDAY, FEBRUARY 22
Parks and Recreation Commission Meeting, 7 p.m.

WEDNESDAY, FEBRUARY 23
Planning & Transportation Commission Meeting, 6 p.m.

THURSDAY, FEBRUARY 24
Historic Resources Board Meeting, 8:30 a.m.

MONDAY, FEBRUARY 28
Sp. City Council Meeting, 5 p.m.

TUESDAY, MARCH 1
Sp. Finance Committee Meeting, 5:30 p.m.

WEDNESDAY, MARCH 2
Sp. Utilities Advisory Committee Meeting (Virtual Only), 6 p.m.

THURSDAY, MARCH 3
Architectural Review Board Meeting, 8:30 a.m.

MONDAY, MARCH 7
Sp. City Council Meeting, 5 p.m.

TUESDAY, MARCH 8
Policy & Services Committee Meeting, 7 p.m.

WEDNESDAY, MARCH 9
Planning & Transportation Commission Meeting, 6 p.m.

THURSDAY, MARCH 10
Historic Resources Board Meeting, 8:30 a.m.
Human Relations Commission Meeting, 6 p.m.

MONDAY, MARCH 14
Sp. City Council Meeting, 5 p.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 (650-329-2571) of meetings or changes by 3:00 p.m. on Wednesdays for inclusion in the following week’s schedule.
Title: Appointment of 2022 Emergency Standby Council

From: Lesley Milton, City Clerk

Staff recommends the City Council approve the selection of the following former Council Members to serve as members of the 2022 Emergency Standby Council:

- Greg Scharff
- Greg Schmid
- Nancy Shepherd
- Bern Beecham
- Lanie Wheeler
- Peter Druckmeier
- Larry Klein *

BACKGROUND
The Charter of the City of Palo Alto provides that, "the Council may, by Ordinance or Resolution, provide for the preservation and continuation of government in the event of disaster which renders unavailable a majority of the Council."

On August 7, 2006, the City Council adopted amendments to Section 2.12.090 of the Palo Alto Municipal Code regarding the selection procedure for the City's Emergency Standby Council. The adopted policy states that the Council shall consider the following criteria for appointments to the Emergency Standby Council: residency in the City of Palo Alto, availability, interest in serving and a lack of conflicts of interest.

Seven members serve on the Emergency Standby Council. Members of the Standby Council have the authority delegated to them under Chapter 2.12 of the Palo Alto Municipal Code. The members of the Emergency Standby Council continue to serve until the Council appoints or reappoints the members at the beginning of each year.

*Still waiting on formal confirmation to serve, will have by meeting date
Summary Title: Affordable Housing Civil Grand Jury Report Responses

Title: Discussion and Direction on Draft Response to the Santa Clara County Civil Grand Jury Report Published December 16, 2021 Pertaining to Affordable Housing and Potential Direction to Staff on Related Policies

From: City Manager

Lead Department: Planning and Development Services

Recommendation:
Staff recommends that Council review the attached Grand Jury Report (Attachment A) and accompanying response letter (Attachment B) and provide direction to staff on any needed modifications.

Executive Summary:
On December 16, 2021, a Civil Grand Jury Report was published entitled “Affordable Housing: A Tale of Two Cities” (Attachment A). The Civil Grand Jury “examined the efforts of the City of Palo Alto and the City of Mountain View to implement an AH strategy.”

A civil grand jury provides findings and non-binding recommendations. The City of Palo Alto must respond with a written letter. Councilmembers Filseth and DuBois assisted staff in drafting a letter (Attachment B). In the letter, Council will find three possible responses to findings and four possible responses to recommendations:

<table>
<thead>
<tr>
<th>Findings</th>
<th>Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Partially disagree</td>
</tr>
<tr>
<td></td>
<td>Disagree</td>
</tr>
<tr>
<td>Recommendations</td>
<td>Implemented</td>
</tr>
<tr>
<td></td>
<td>Will be implemented (and timeline)</td>
</tr>
</tbody>
</table>

Council is asked to review the Civil Grand Jury Report, review the letter, and provide feedback. The feedback will be incorporated into a revised draft of the letter that will be placed on the Council consent agenda. Once approved, the letter will be sent to the presiding Superior Court judge. This response is required to be submitted no later than March 16, 2022.

The brevity of this staff report reflects the elaborative content of the letter. The letter explains how and where the report accurately or inaccurately characterized the City of Palo Alto. Councilmembers can review the report and the response in the letter to understand how the City might reflect its position on the topics addressed in the report.

**Summary of Key Issues:**
Grand Jury reports and their recommendations are non-binding. The City is not obligated to implement the recommendations. The City may, however, choose to implement the recommendations.

For the most part, the ad hoc committee and staff found the recommendations missed the mark because the analysis of the issues incorrectly attributed responsibility for the production of affordable housing during a limited time period to councilmembers, staff, and city actions. The errors in the analysis lead to findings and recommendations that are challenging to implement and may not yield the desired result—even if implemented. The letter details these shortcomings in the discussion of each finding and recommendation and also capitalizes on recommendations that staff and the ad hoc believe advance the shared interest to promote affordable housing production.

**Policy Implications:**
While the report is nonbinding, the City’s response is an opportunity to communicate to Palo Altans and the Bay Area community the values of the City, including a high value on producing and sustaining affordable housing.

**Resource Impact:**
The response to the Civil Grand Jury report represents unanticipated work that has required the use of City resources. Should Council decide to implement recommendations beyond those proposed in the draft letter, additional resources may be required. Staff will consider Council direction and follow-up as needed regarding additional required resources.

**Timeline:**
The City has 90 days from the Grand Jury’s publication date December 16, 2021 to respond in
writing.

Environmental Review:
This response does not constitute a response under the California Environmental Quality Act.
Attachments:

Attachmenta: Attachment A: Grand Jury Affordable Housing Final Report (PDF)
AFFORDABLE HOUSING:
A Tale of Two Cities

2021 Civil Grand Jury
of Santa Clara County

Release Date: [Tentative 12/16]
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## Glossary and Abbreviations

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<tr>
<th>Abbreviation</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABAG</td>
<td>Association of Bay Area Governments: a regional planning agency</td>
</tr>
<tr>
<td>AH</td>
<td>Affordable Housing</td>
</tr>
<tr>
<td>AMI</td>
<td>Area Median Income: The median family income in a metropolitan or nonmetropolitan area</td>
</tr>
<tr>
<td>ELI</td>
<td>Extremely Low-Income: Households with income at or below the Poverty Guideline or 30% of AMI, whichever is higher</td>
</tr>
<tr>
<td>FAR</td>
<td>Floor Area Ratio: the measurement of a building’s floor area in relation to the size of the lot/parcel that the building is located on.</td>
</tr>
<tr>
<td>GDP</td>
<td>Gross Domestic Product: the total value of goods produced, and services provided in a country for one year</td>
</tr>
<tr>
<td>HCD</td>
<td>The California Department of Housing and Community Development: the state agency which produces the RHNA allocations</td>
</tr>
<tr>
<td>HE</td>
<td>Housing Element: a report created by each city in response to the city’s share of RHNA housing goals</td>
</tr>
<tr>
<td>LI</td>
<td>Low-Income: households with incomes between 50% and 80% of AMI</td>
</tr>
<tr>
<td>MI</td>
<td>Moderate-Income: households with income between 80% and 120% of AMI</td>
</tr>
<tr>
<td>NOFA</td>
<td>Notice of Funding Availability: a public notice issued by a governmental entity which announces the availability of funding for a specific purpose and can be requested through an application process. It is typically awarded competitively for proposals that achieve an outcome desired by that organization</td>
</tr>
<tr>
<td><strong>NVCAP</strong></td>
<td>North Ventura Coordinated Area Plan: an area in Palo Alto, located near the old Fry’s store, where multiple proposals from City staff, residents, and property owners have been developed</td>
</tr>
<tr>
<td>-----------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Permitted</strong></td>
<td>An official approval that has been issued by a local government agency that allows a builder to proceed with a project.</td>
</tr>
<tr>
<td><strong>Prop 13</strong></td>
<td>Proposition 13: a June 1978 amendment to the California Constitution that established the concepts of a base year value for property tax assessments, and limitations on the tax rate and assessment increase for real property. This reduced property tax revenue for California municipalities.</td>
</tr>
<tr>
<td><strong>RHNA</strong></td>
<td>Regional Housing Needs Allocation: On an eight-year cycle, the state’s Department of Housing and Community Development gives each regional planning agency a housing planning target for the number of units needed and affordable at various income levels. The regional planning agencies then sub-allocate target numbers to local jurisdictions.</td>
</tr>
<tr>
<td><strong>VLI</strong></td>
<td>Very Low-Income: households with income below 50% of the AMI. This also includes the extremely low-income category.</td>
</tr>
</tbody>
</table>
SUMMARY

While Charles Dickens’ novel, *A Tale of Two Cities*, was written over 160 years ago, we can extrapolate some important ideas that continue to be relevant today.¹ At its core, the Dickens novel is about the continuing possibility of resurrection and transformation as well as the capacity of humans to change. He believes that discarding the old way of thinking prepares the pathway for transformation. The 2021 Civil Grand Jury of Santa Clara County (Civil Grand Jury) will try to illuminate one city’s new way of thinking about Affordable Housing (AH), while contrasting it with a city still thinking in the old way.

The Civil Grand Jury examined the efforts of the City of Palo Alto and the City of Mountain View to implement an AH strategy. While all jurisdictions in Santa Clara County (the County) struggled to meet AH mandates, Mountain View was on a path of meeting its targets (56% of AH goals as of 2019) while Palo Alto was consistently falling short (just over 10% of AH goals as of 2019).² Why are these northern neighbors performing so differently? What practices have caused one to be more effective than the other in handling this difficult challenge?

To answer the question about practices, the Civil Grand Jury identified four broad areas which significantly impact AH success. They are: (i) Political and Community Support, (ii) Proactive Planning and Effective Reporting, (iii) Supportive Practices, and (iv) Affordable Housing Financing. Each area will be discussed in more detail later in the report.

The Civil Grand Jury identified important differences between the two cities in these four areas. Mountain View has built up strong community support for AH and has fostered and maintained the political will over several years to advance on its goals and meet its mandates. Palo Alto lacks a cohesive and effective way to communicate with its citizens and as a result, has continually struggled to garner community support for the value of and need for AH.

Mountain View has systematically planned to achieve AH targets through well-coordinated regional housing plans and straightforward near-term planning. Once the plans were in place, they were continually monitored and effectively communicated to the citizens. Due to the lack of alignment on AH goals and on the zoning changes AH requires, Palo Alto has a variety of separate plans and policies but few outcomes. Mountain View’s coordinated plans enabled much shorter approval cycles compared to Palo Alto.

Given the cost and complexity of AH financing, Mountain View has taken a very targeted approach to building an AH fund and leveraging all available State and County resources. Palo Alto has

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struggled to build an AH fund because, in comparison to Mountain View, there has been less commercial or mixed-use development due to its lack of political and community support and slow approval process. Both cities would also benefit from having a dedicated and empowered affordable housing manager to champion this important cause.

The Civil Grand Jury believes there are lessons to be learned from this tale of two cities. Other jurisdictions might look to these best practices to improve their own policies and strategies. Due to increasing AH needs and challenging new state mandates exerting greater state control over AH developments, there is more urgency for cities to successfully meet AH targets.

The Civil Grand Jury hopes the findings and suggestions in this report will lead to renewed efforts by the cities to successfully meet their AH targets and mandates. While the Civil Grand Jury cannot say this is the best of times yet for AH in these cities, it is through greater commitment and renewed efforts that additional housing opportunities for the residents of Santa Clara County will be created.
BACKGROUND

The Problem

California and the Bay Area are failing to solve one of the most important economic, environmental, and social issues facing the state—affordable housing. California’s housing/job imbalance has been growing. A McKinsey report discovered that since the 1970s, “the state [has] added only 325 homes for every 1,000 additional people.”

Given the importance of this crisis, it is not surprising that prior civil grand juries (two in Southern California and one in Santa Clara County) have investigated this issue. In June 2018, the 2017-2018 Santa Clara County Civil Grand Jury concluded “The critical need for affordable housing is the issue of the day in Santa Clara County … and our cities are failing.” However, the problem persists.

The pandemic and the economic slowdown of the past two years have worsened the housing situation in the Bay Area for low-income wage earners and their families. This year in Santa Clara County, there are just 29 homes available for every 100 extremely low-income (ELI) renter households. Homelessness increased 31% between 2017 and 2019. The County has the fourth highest rate of homelessness of any community in the country.

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AFFORDABLE HOUSING: A TALE OF TWO CITIES

If “adequate housing is universally viewed as one of the most basic human needs,” then Santa Clara County is not meeting a basic need of almost 50% of its residents.8

Affordable Housing Defined

The term AH denotes either rental or owned housing which costs less than a region’s average housing cost. AH is generally divided into three categories: Extremely Low-Income (ELI), Very Low-Income (VLI), or Low-Income (LI).9 These low-income levels vary by region because they are determined by an area’s Average Median Income (AMI). Table 1 shows these categories for Santa Clara County.

<table>
<thead>
<tr>
<th>Income Level</th>
<th>Household 1*</th>
<th>Household 2</th>
<th>Household 3</th>
<th>Household 4</th>
<th>Household 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Income: &lt;80% of AMI</td>
<td>$82,450</td>
<td>$94,200</td>
<td>$106,000</td>
<td>$117,750</td>
<td>$127,200</td>
</tr>
<tr>
<td>Very Low Income: &lt;50% of AMI</td>
<td>$58,000</td>
<td>$66,300</td>
<td>$74,600</td>
<td>$82,850</td>
<td>$89,500</td>
</tr>
<tr>
<td>Extremely Low Income: &lt;30% of AMI</td>
<td>$34,800</td>
<td>$39,800</td>
<td>$44,750</td>
<td>$49,700</td>
<td>$53,700</td>
</tr>
</tbody>
</table>

*Number of individuals in the Household

Table 1. Santa Clara County 2021 Area Median Income (AMI) Chart10


9 Many cities are also very concerned about housing affordability for “moderate-income” earners. See The Committee to House the Bay Area, CASA Compact, January 2019, p. 15, https://mtc.ca.gov/sites/default/files/CASA_Compact.pdf.

The Affordable Housing Gap

Thirty-two percent of Silicon Valley households earn $200,000 or more annually.\(^1\) This is a larger share of high-income households than the City and County of San Francisco (31\%), California (14\%), or the United States (9\%).\(^2\) Income inequality in Silicon Valley is more than double that of the U.S. overall and has increased by 81\% since 1990.\(^3\) The extreme income disparity between the highest- and lowest-wage earners drives up housing costs because increased demand by high-income households creates competition which drives home prices higher.\(^4\) Currently, California’s real estate prices are rising “three times faster than household incomes, [and] more than 50\% of the state’s households cannot afford the cost of housing.”\(^5\)

Nearly half of Bay Area renters are rent-burdened—they spend more than 30\% of their household income on rent.\(^6\) In 2021, Santa Clara County renters need to earn 2.8 times the minimum wage, or $46.21 per hour, to afford the County’s average rent.\(^7\)


\(^2\) Ibid, p. 41.

\(^3\) Ibid, p. 40.


\(^5\) Woetzel, et al., A Tool Kit, p. vi.


### Occupation

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Mean Annual Wage</th>
<th>% of Monthly Income Needed to Afford Average Market Rent for a 2-Bedroom Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dishwashers</td>
<td>$30,160</td>
<td>127%</td>
</tr>
<tr>
<td>Hairdressers</td>
<td>$33,384</td>
<td>115%</td>
</tr>
<tr>
<td>Receptionists and Information Clerks</td>
<td>$39,239</td>
<td>98%</td>
</tr>
<tr>
<td>Retail Salespersons</td>
<td>$39,987</td>
<td>96%</td>
</tr>
<tr>
<td>Security Guards</td>
<td>$41,512</td>
<td>93%</td>
</tr>
<tr>
<td>Preschool Teachers</td>
<td>$41,563</td>
<td>92%</td>
</tr>
<tr>
<td>Medical Assistants</td>
<td>$47,846</td>
<td>80%</td>
</tr>
<tr>
<td>Daycare &amp; Preschool Administrators</td>
<td>$55,020</td>
<td>70%</td>
</tr>
<tr>
<td>Police Officers</td>
<td>$130,911</td>
<td>29%</td>
</tr>
</tbody>
</table>

**Table 2. Santa Clara County Wage/Housing Gap**

Since the 1970s, jobs in the region have increased faster than available housing units. A study by the Bay Area Council Economic Institute shows that one high-tech sector job is associated with the creation of 4.3 additional jobs in the local goods and services economy. The number of AH units needed has severely lagged job creation for the past five decades.

### Consequences of the Affordable Housing Crisis

According to the McKinsey Global Institute study, nearly 100% of California’s ELI, VLI, and LI households cannot afford the cost of local housing. This disparity negatively affects every aspect of a community’s well-being, forcing lower-income workers to commute long distances, increasing their stress, reducing family time, and impacting the environment. Lack of decent affordable housing increases crowded, multi-family households, housing instability, and

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19 City of Gilroy, *What is Affordable Housing in Santa Clara County?* p. 2.

homelessness. Diversity is diminished because “Black people, Native Americans and Latinos are more likely to experience homelessness and overcrowded housing than white people.”

The McKinsey Global Institute calculates that “in dollar terms, California loses $140 billion per year in output or 6 percent of state Gross Domestic Product due to the housing shortage.” They divide these annual losses into approximately $90 billion in missed construction investment and more than a $50 billion loss in consumer spending on food, health, and education.

The AH crisis also impacts the social fabric of the community. Homelessness was increasing in the County before the pandemic and the current economic uncertainty has made it worse. Many low-income wage earners are one paycheck away from eviction. Although moving to lower-cost housing areas avoids the threat of homelessness, it creates other negative consequences. About 120,000 Silicon Valley workers live long distances from their jobs. Silicon Valley “super commuters” drive 3 hours one way to work, resulting in traffic gridlock, air pollution, and degraded health and quality of life.

Other negative consequences are more subtle. Low-income workers and families with long commutes are disproportionately from non-White, non-Asian backgrounds. The communities they work in—but cannot live in—suffer a loss of diversity. Because of this loss of workers, the civic, political, cultural, and human engagement of the region narrows. In addition, the region loses


22 Ibid.


24 Ibid.


needed workers. In 2019-2020, more people left the state than moved here, resulting in a net migration loss of 135,600.29

State-Driven Planning Solutions

The California Department of Housing and Community Development (HCD) drives statewide housing planning efforts through the Regional Housing Needs Allocation (RHNA). Every eight years, the HCD works with regional councils of government to estimate the number and type of jobs that are expected. With this job estimate, RHNA then projects the number of housing units needed at a variety of affordability levels. HCD allocates the appropriate number of new housing units to each region. The County is part of the Association of Bay Area Governments (ABAG) region which is responsible for allocating the housing need among the cities and counties in the Bay Area.30

Once ABAG has sub-allocated housing quotas, each city must produce a planning document, titled the Housing Element Report.31 This plan identifies potential sites where housing may be built over the next eight years and the policies and strategies that are needed to help cities meet the housing goals. The sites identified typically include property the city does not own or control.

Although most cities in the County are meeting their ABAG quotas for higher-income level housing, few are meeting their AH allocations (see Table 3).

In response to the AH crisis, the California Governor signed on September 16, 2021, three bills that address the state’s housing crisis. Senate Bill 8 accelerates housing project approval processes and limits fee increases and a city’s ability to downzone (i.e., reduce the density of housing development in an area). Senate Bill 9 requires cities and counties to approve development proposals that meet specified size and design standards. It also allows property owners to split a single-family lot into two lots and place up to two units on each newly created lot. Assembly Bill 1174 amends an existing measure that streamlines approval processes for housing in cities and

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counties that have not yet made sufficient progress in meeting their RHNA goals. The impact of these statewide reforms is yet to be felt.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Affordability Level</th>
<th>RHNA Goals</th>
<th>Permits approved as of 2019</th>
<th>% Progress</th>
</tr>
</thead>
<tbody>
<tr>
<td>Palo Alto</td>
<td>Very Low Income (VLI) &amp; Low Income (LI)</td>
<td>1123</td>
<td>80</td>
<td>7%</td>
</tr>
<tr>
<td></td>
<td>Moderate Income (MI) and Above Moderate Income (AMI)</td>
<td>865</td>
<td>426</td>
<td>49%</td>
</tr>
<tr>
<td>Mountain View</td>
<td>LI &amp; VLI</td>
<td>1306</td>
<td>326</td>
<td>25%</td>
</tr>
<tr>
<td></td>
<td>MI &amp; AMI</td>
<td>1620</td>
<td>2557</td>
<td>158%</td>
</tr>
<tr>
<td>San José</td>
<td>LI &amp; VLI</td>
<td>14661</td>
<td>854</td>
<td>6%</td>
</tr>
<tr>
<td></td>
<td>MI &amp; AMI</td>
<td>20419</td>
<td>11748</td>
<td>58%</td>
</tr>
<tr>
<td>City of Santa Clara</td>
<td>LI &amp; VLI</td>
<td>1745</td>
<td>145</td>
<td>8%</td>
</tr>
<tr>
<td></td>
<td>MI &amp; AMI</td>
<td>2348</td>
<td>3980</td>
<td>170%</td>
</tr>
</tbody>
</table>

Table 3. Percent Achievement Compared to RHNA Goals

Cities in the Middle

Creating affordable housing is a complex local interaction among a variety of players – city officials and staff, non-profit and for-profit developers, landowners, residents, banks, and a variety of advocacy organizations. Cities by themselves rarely have the full resources needed to build AH.

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They often lack sufficient financial resources to completely fund an AH project. They also may not have appropriate public land on which to build their RHNA quota of AH units.

Despite many challenges, some cities in the County have come closer to meeting their affordable housing RHNA quotas than other cities. The Civil Grand Jury investigated this discrepancy by examining the efforts of two cities in the County that share a border, Mountain View and Palo Alto, which have very different achievement levels, as shown in Table 4.

<table>
<thead>
<tr>
<th>Income Group</th>
<th>% of County AMI</th>
<th>Palo Alto</th>
<th>Permits approved</th>
<th>% of RHNA Accomplished Palo Alto</th>
<th>Mountain View</th>
<th>Permits approved</th>
<th>% of RHNA Accomplished Mountain View</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Low</td>
<td>0-50%</td>
<td>691</td>
<td>101</td>
<td>15%</td>
<td>814</td>
<td>218</td>
<td>27%</td>
</tr>
<tr>
<td>Low</td>
<td>51-81%</td>
<td>432</td>
<td>65</td>
<td>15%</td>
<td>492</td>
<td>212</td>
<td>43%</td>
</tr>
<tr>
<td>Moderate</td>
<td>81-120%</td>
<td>278</td>
<td>26</td>
<td>9%</td>
<td>527</td>
<td>18</td>
<td>3%</td>
</tr>
<tr>
<td>Above Moderate</td>
<td>120%+</td>
<td>587</td>
<td>540</td>
<td>92%</td>
<td>1093</td>
<td>3771</td>
<td>345%[^35]</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>1988</td>
<td>732</td>
<td>37%</td>
<td>2926</td>
<td>4219</td>
<td>52%</td>
</tr>
</tbody>
</table>

Table 4. Regional Housing Needs Allocation (RHNA) 2015-2023: Palo Alto & Mountain View Progress[^36]

The table above shows the current achievement of each city. The future outlook for these two cities is also very different. By 2023, Mountain View (MV) Planning Division anticipates reaching 45.6% of its RHNA goal for VLI housing and 75.6% of its RHNA goal for LI housing[^37]. In contrast, the Palo Alto (PA) Planning Department warned the City Council in January 2021 that progress building AH continues to be slow and that “near-term housing production is not anticipated to reach” the 2023 RHNA goals.[^38]

[^35]: In Mountain View, the number of permitted units exceeding the RHNA Above Moderate category allocation (an “excess” of 2,678) are not counted in the calculation of the total percentage accomplished.


METHODOLOGY

The Civil Grand Jury’s interest in this issue started with a review of the 2017-18 Civil Grand Jury of Santa Clara County’s report, *Affordable Housing Crisis: Density is our Destiny.* The Civil Grand Jury also reviewed other county civil grand jury reports: the 2016-2017 Civil Grand Jury of Los Angeles County’s report on affordable housing needs and progress, as well as the two Civil Grand Jury of Santa Barbara County reports, one on county homelessness and one on the City of Santa Barbara’s lack of affordable housing.

The Civil Grand Jury interviewed twenty people for this report, some of them more than once. Interviewees also answered follow-up emails, suggested additional individuals to interview, and supplied the Civil Grand Jury with documents and data. People interviewed represented a broad spectrum of interests and organizations involved in AH: city and county elected and appointed officials, city and county staff, leaders of regional and local non-profit organizations, non-profit and for-profit developers, and representatives of residential/neighborhood advocacy organizations.

The Civil Grand Jury read the *Regional Housing Needs Assessment* (RHNA) for Mountain View and Palo Alto for the current RHNA cycle, 2015-2023 as well as the two Cities’ corresponding *Housing Element* planning documents and annual Housing Element updates to their respective city councils. The Civil Grand Jury also researched over a hundred city-produced staff reports, land-use documents, plans and proposals, consultants’ findings, city council agendas, minutes, and memoranda. Local and regional news outlets were particularly helpful in identifying key city council actions and studies.

To better understand the actions and outcomes of these two Cities’ affordable housing efforts, the Civil Grand Jury also examined online resources and housing studies identifying best practices in AH development. A bibliography of key best practices appears in a separate section of this report’s References.

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DISCUSSION

Santa Clara County cities struggle to create AH. Yet Mountain View and Palo Alto have made radically different progress in building LI and VLI units during the first six years of the current RHNA cycle as shown in Table 4 above.

There is no easy solution that will solve the AH crisis. However, advocacy groups, researchers, and innovative municipalities have identified a set of best practices.

These best practices fall into four areas:

- Political Commitment and Community Support
- Proactive Planning and Effective Reporting
- Supportive Practices
- Affordable Housing Financing

In each area, there are tools and strategies that can be used to assist cities in building affordable housing. The Civil Grand Jury investigated how Mountain View and Palo Alto use these tools.

Political Commitment and Community Support

The housing crisis can only be solved at the local level. The solution requires city leadership, residents, property owners, and developers collaborating to achieve AH goals. In their study of housing affordability best practices, James Wood and colleagues acknowledge that:

as city councils and planners respond to their constituents, zoning ordinances come to embody, in part, resident concerns, interests, and preferences. And a facet of land use regulation familiar to every developer is the opportunity for neighbors to express their views, in front of the city council and planning commission, on proposed new residential and commercial developments.

How do city leaders create the conditions that support AH? How do they align all stakeholders behind a local strategy and then successfully execute that strategy? AH success requires long-term

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commitment of city leaders and city residents. Commitment requires leadership, education, and persistence.

**Mountain View: political commitment**

Cities develop each *Housing Element* eight-year plan through a formal process that includes substantial community input. Both the MV City government and the residents of MV support the goal of socioeconomic and cultural diversity and support building AH as a way to reach that goal. The Mountain View 2015 - 2023 *Housing Element*’s two top goals are:

- Support the production of new housing units serving a broad range of household types and incomes
- Provide assistance to households at different income levels to address their housing needs

These goals build on several of the City’s core values, including:

- Promote a community for all with a focus on strategies to protect vulnerable populations
- Improve the quantity, diversity and affordability of housing
- Preserve Mountain View’s socioeconomic and cultural diversity

The MV City Council uses these values to drive the City’s priorities. Every two-to-five years the City Council develops a Strategic Action Plan. These plans establish an achievable set of priorities, direct funding, and identify project completion dates. They remain relatively stable across City Council election turnover and reflect MV’s stated values. In the past five years, the Strategic Action Plan goals have prioritized affordable housing. The Civil Grand Jury learned that MV city leaders take pride in MV’s positive and stable support of AH. This support, reflected in their strategic plans, is a key component of Mountain View’s AH successes. For example, in the City’s

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2021-2022 and 2022-2023 action plans, two of the seven strategic priorities are “Community for All” and “Intentional Development & Housing Options.”46 (Finding 1)

Mountain View: community support

The Mountain View City government could not champion AH without the support of its residents. Many MV residents are renters, who have been politically active, and have aligned in the past with AH advocates.47 For example, in 2016 MV voters passed the Community Stabilization and Fair Rent Act (CSFRA) which tied annual rent increases to the Bay Area Consumer Price Index.48 This charter amendment was in direct response to AH scarcity and large multi-year rent increases.49

However, an active population of renters is not sufficient to explain MV’s sustained AH achievements. As in other cities, AH does not have total community support. To overcome resistance and ensure community concerns are heard and resolved, the MV City Council and staff have built a strong communication process that systematically reaches MV residents in every neighborhood. The goal of this ongoing dialog is to educate residents about the need for AH, the costs and trade-offs required, and the areas that are zoned for AH development. With this proactive communication, specific projects may be modified by resident input but are rarely derailed.

The MV City government organizes this communication around twenty-five published Precise Plans—defined city areas where development and zoning options are identified in detail. Some of these Precise Plans include affordable housing zoning. The City uses these as both planning and communication tools “for coordinating future public and private improvements on specific properties where special conditions of size, shape, land ownership, or existing or desired development require particular attention.”50 Each plan is reviewed every three years on a rotating schedule. As part of each plan’s review, a team comprised of a City councilmember, staff, developers, and public safety representatives meet with neighborhood residents to talk about the

46 City of Mountain View, Strategic Priorities, https://www.mountainview.gov/council/strategic_planning_and_visioning.asp.

47 58% of Mountain View residents are renters. See: TownCharts.com, Figure 32: Number of Owners vs. Renters in Mountain View, CA and Area, accessed August 16, 2021, https://www.towncharts.com/California/Housing/Mountain-View-city-CA-Housing-data.html.


plan, allay fears, and understand and mitigate concerns. One of the communication goals is to make sure no one is surprised when AH is built. The Civil Grand Jury found it compelling to hear that when visitors toured a Mountain View AH project, they could not differentiate it from a middle-income project. City staff and councilmembers take pride and satisfaction in creating attractive housing for all. *(Finding 2)*

**Palo Alto: political commitment**

In PA, the City Council, staff, and the residents have also expressed support for Affordable Housing. AH is a top priority in many of the PA City Council policy and planning documents. For example, the second and third goals in the PA 2015-2023 Housing Element address and establish policies to support AH:

- **H2 GOAL:** Support the Construction of Housing Near Schools, Transit, Parks, Shopping, Employment, and Cultural institutions  
  - **H2.1 POLICY:** Identify and implement strategies to increase housing density and diversity…. Emphasize and encourage the development of affordable and mixed-income housing to support the City’s fair share of regional housing needs and to ensure that the City’s population remains economically diverse.
- **H3 GOAL:** Meet Underserved Housing Needs and Provide Community Resources to Support Our Neighborhoods  
  - **H3.1 POLICY:** Encourage, foster, and preserve diverse housing opportunities for very low-, low-, and moderate-income households.  

This emphasis on policies that support AH is reflected in other City documents and City Council actions. The Palo Alto Comprehensive Plan includes Policy L-1.4 which commits the City to:

creating an inventory of below market rate housing for purchase and rental. Work with neighbors, neighborhood associations, property owners and developers to identify barriers to infill development of below market rate and more affordable market rate housing and to remove these barriers, as appropriate. Work with these same stakeholders to identify sites and facilitate opportunities for below market rate housing and housing that is affordable.  

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Through Council Colleagues’ Memos and a variety of other actions, PA City councilmembers continue to acknowledge and support the need to create more AH. Despite this public support, the actions have not matched policies. The City has permitted far fewer AH units in this RHNA cycle, and in the previous one, than it achieved two RHNA cycles ago:

- 166 AH units or 15% of RHNA by 2020
- 165 AH units or 13% of RHNA by 2014
- 344 AH units or 90% of RHNA by 2006

Palo Alto has a strong tradition of community consultation. A potentially contentious issue such as where to build AH can be resolved if consultation and conversation is productive. The PA City Council has charged the Planning and Development Services Department with the responsibility to “maintain an ongoing conversation with the community regarding the need for affordable housing, the financial realities of acquiring land and building affordable housing, and the reasons that affordable housing projects need higher densities to be feasible.” However, the PA City Council should not expect staff to manage such a contentious issue. Councilmembers should be taking a leadership role in these conversations.

Several of the current City leaders ran on platforms that included support for AH. Campaign websites state this commitment:

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• funding for moderate and low-income housing

• Prioritize housing by focusing on leveraging government programs, developer fees, and implementing our Comprehensive Plan to increase our affordable (below market rate) housing

• a vision for Palo Alto that is inclusive and diverse … provides new affordable housing opportunities

Rather than relying on staff to educate PA residents about the complexities involved in building AH and hear resident concerns, PA councilmembers should be the point-persons in working with and listening to residents. (Finding 3)

**Palo Alto: community support**

Palo Alto conducts an annual community survey that is reported to the City Council and helps shape their annual plan. Over the past four years, resident concern about the lack of affordable housing has become more prominent. In the 2021 Community Survey, nine in ten PA residents rated the quality of their city and neighborhoods as excellent or good. The unique qualities of PA’s 35 neighborhoods are highly valued, and residents wish to preserve their tree-lined streets, many parks, and historic homes and neighborhoods. A desire to maintain these qualities motivates some residents to resist the changes AH might bring. In that same survey, the responses to the question “What should the city change?” give a flavor of the tensions surrounding the AH issue for Palo Altans:

• Build more housing! Affordable housing will give us a more diverse and vibrant city. The idea that it will ruin what we have is just silly.
• Limit developers from adding more residences because it makes traffic a nightmare.
• More affordable housing for all – teachers, firemen, police, secretaries, etc.

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• Stop increasing population density of the city by allowing more housing that is not single family. I bought into Palo Alto because it is primarily single-family zoning.\textsuperscript{60}

Unfortunately, several promising AH projects have been derailed in this RHNA cycle and the last cycle because of negative input from residents.\textsuperscript{61} Resident objections to AH proposals stem from a variety of reasons, including lack of agreement on goals, failure to feel consulted, and worry that AH will compromise the beauty and safety of a neighborhood.

One example of a lack of agreement on goals is the controversial North Ventura Coordinated Area Plan (NVCAP) project near the former Fry’s location. A fourteen-person panel worked with staff from the PA Planning Department, developers, and consultants to create alternative plans for the NVCAP area. After four years, the panel has not reached a consensus on goals, let alone ways to reach those goals.

The City of Palo Alto and pro-AH groups see the North Ventura area as an opportunity to build needed AH. Many residents support AH but do not want their neighborhood to become the vanguard for tall, dense buildings and parking scarcity. Some residents also do not accept the City’s model of mixed-use development as a trade-off for AH units. The Civil Grand Jury learned that some members of the working group and residents felt the project’s goals were changed by staff and the consultants during the planning process. Residents felt the changes no longer aligned with what the neighborhood wanted.

The PA Planning Department based its work in part on financial data from a study done in 2020 that identified what percentage of AH units were financially feasible for a for-profit developer to include in the project.\textsuperscript{62} The staff and consultants also “engaged in a tremendous amount of


community outreach, providing numerous opportunities for public engagement and meaningful input.”

Few people were satisfied by the three alternatives presented to the PA City Council. They were “deemed unfeasible by the city’s consultants and unappealing by the property owners and residents.” North Ventura residents felt that the City’s staff and consultants controlled the process and did not listen to community concerns. The outcome of this four-year planning process has been characterized as “a terrible, disappointing, and unfortunate failure.”

An example of another failed project occurred in 2012. The non-profit Palo Alto Housing Corporation purchased a 2.5-acre site on Arastradero Road with plans to build 60 units of AH for seniors and 15 single-family homes. In September 2012, the non-profit held a poorly attended community meeting to introduce nearby residents to the project. Another community meeting was held in January 2013. With few residents in attendance, the PA Planning and Transportation Commission approved a plan to change the zoning, and the PA City Council approved loaning funds to the non-profit in March of that year. A final neighborhood meeting was held in April to discuss the project’s modified plans and its impact on traffic. In contrast to the poorly attended neighborhood and City meetings, a large group of residents attended the May 2013 PA City Council meeting to protest the development. They expressed the feeling that their issues had not been adequately listened to by PA City Council and the non-profit developer. After signatures were gathered, a measure was placed on the November 2013 ballot to halt the development. Once the measure passed, Palo Alto Housing Corporation was unable to build the project.

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64 Sheyner, “With No Consensus.”


66 Sheyner, “With No Consensus.”


Resident commenting on a variety of AH proposed projects indicate that they want to be engaged in PA’s AH planning and are willing to negotiate and compromise:

- Residents need to be actively and genuinely consulted with regard to significant developments proposed to take place in their immediate neighborhood.⁶⁹
- The Working Group met for two years, and they [City staff] didn’t respect their time, commitment, and dedication to even take their ideas under consideration.”⁷⁰
- Despite initial misgivings…residents of the Ventura neighborhood on Monday rallied behind the project. Many credited the development team for listening and constructively responding to their concerns.⁷¹

Building AH is neither simple nor inexpensive. Palo Altans need to understand the possible locations, design requirements, and financing required for AH. Responding to residential apprehensiveness that an AH project will lead to crime and increased traffic, the City can lead discussions that explain to residents how an AH project will allow teachers, city workers, and service employees to live in the city where they work. City leaders can also lead discussions to combat the idea that AH developers are motivated by profit when, in fact, they are often non-profit organizations.

The City can also explain the perspective of for-profit developers who expect a fair rate of return on the time and money they must invest, and the risk they take when developing a mixed-use project that combines AH with commercial space or market-rate housing. An urban economics consulting firm analyzed the feasibility of including below-market rate housing in different types of developments.⁷² Their analysis assumed that if a rental project provided a return of 5% or more, the project was “highly likely” to be built; if the return was less than 4.75 %, the project was unlikely to be built. Many residents believe that developers make excessive profits and are unaware that many AH projects struggle to reach viability. Residents are less likely to make financially

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⁶⁹ Hirsch, “Guest Opinion.”


⁷² City of Palo Alto, Inclusionary Below Market Rate Feasibility Study, p. 5.
untenable proposals or objections to a project if they understand the issues and tradeoffs and feel their concerns have been respected. 73

According to many researchers, building resident and stakeholder support for AH is an effective best practice. 74 City staff do not have the same stature as elected leaders. Therefore, PA City councilmembers cannot expect staff alone to lead community conversations that enable PA residents to understand AH needs and cost requirements and to build community support. City councilmembers--PA's community leaders--can play a critical role in publicly supporting and discussing AH. Since many current PA City councilmembers ran on platforms that included AH, they are well-positioned to take a leadership role in discussing this issue with residents.

To be more successful in building AH, the PA City Council should continue its tradition of strong resident input but engage with residents to create a series of defined area plans with clear zoning rules, including for AH zoning. One example of the City’s success in doing this is the South of Forest Area Coordinated Area Plan (SOFACAP). 75 Palo Alto should employ the process used for SOFACAP to work with residents in other areas where AH is appropriate to build. Direct, transparent, and committed dialog, particularly when crafting plans and projects, can be effective. Palo Alto City councilmembers should develop a communication plan that they can use to engage residents and stakeholders in proactive, detailed, and fact-based conversation to allay resident concerns, focus on the benefits of AH, and build resident support. 76 (Finding 4)

Proactive Planning and Effective Reporting

The RHNA-mandated Housing Element reports written by cities are planning documents as opposed to approved projects. The Housing Element lists potential sites where AH might be built as well as policies and actions cities might undertake to help build AH. To be effective, these


74 Woetzel, et al., Toolkit, p. iv; James Wood, et al., Housing Affordability,


general plans must be turned into action-oriented outcomes supported by local leadership, developers, and residents. To develop resident support, cities must not only create specific plans with resident input but also communicate those plans effectively to the community.

Creating community engagement by including community members in the advance planning processes and communicating the value of AH are best practices. Successful AH projects require “that local governments should restore direct reliance on adopted plans and create transparency, predictability, reliability and timeliness to the housing approvals process.”

So how effective are MV and PA in creating proactive plans that are realistic for all stakeholders (residents, developers) and result in real housing being built? Are these plans well-tailored to each area or a mix of options that require time-consuming negotiations or approvals? Who leads the planning effort and engages stakeholders? Finally, how well are the two Cities making progress on these plans and their AH goals?

**Mountain View: proactive planning**

Mountain View has 25 Precise Plans covering 24 neighborhoods. The City uses these plans as “a tool for coordinating future public and private improvements on specific properties where special conditions of size, shape, land ownership, or existing or desired development require particular attention.” The visions, principles, and goals in these plans are coordinated with MV’s *General Plan* and *Housing Element Plan*. But the Precise Plans live up to their titles—they are concrete, spelling out where and how AH will be included.

Not only does MV leadership take a proactive role in creating precise plans, but when property owners struggle to resolve development conflicts, MV has actively stepped in to offer a

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79 Committee to House the Bay Area, *CASA Compact*, p. 12.

80 City of Mountain View, *Precise Plans*.

resolution.⁸² Within MV’s North Bayshore Precise Plan area, two property owners with adjacent land (Google and SyWest) could not agree on a coordinated approach to developing the sites. In response, the MV City Council created a new set of development standards for a 30-acre section. This proposed Gateway Master Plan “will help implement the goals and objectives of the [broader] Precise Plan.”⁸³ Google likes the proposed plan, but SyWest says it doesn’t work financially for them. City officials are working proactively with the developers to resolve their concerns over this proposed solution.⁸⁴

In addition to the Precise Plans, the MV City Council uses its planning process to focus City work on AH outcomes. The Council periodically adopts and updates a 2-to–5-year Strategic Roadmap Action Plan in which AH is prioritized. The current plan lists specific affordable housing actions to be completed in the next two years of the five-year plan.⁸⁵ (Finding 5)

**Palo Alto: multiple plans, few outcomes**

Unlike MV, PA does not have a comprehensive, well-organized set of planning documents that clearly identify regions where the City is planning AH development that the Civil Grand Jury could find. Instead, AH is addressed in a confusing combination of general and specific approaches.

The *Comprehensive Plan* defines allowable land uses for residential, mixed-use, and commercial areas within PA. Some areas include options for affordable housing.⁸⁶ The *Comprehensive Plan* was used extensively in creating PA’s 2015-2023 *Housing Element*.

Palo Alto strengthened its current *Housing Element* with specific AH-enabling zoning changes in 2019 when the PA City Council passed the *Housing Work Plan Implementation Ordinance*.

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⁸⁵ City of Mountain View, *Strategic Roadmap Action Plan*.

Prompted by a 2018 Council Colleagues’ Memo calling for more AH, this ordinance amended the Municipal Code to “remove barriers and disincentives to housing development at higher densities where appropriate near transit, jobs and services, and that is affordable for a range of income levels [sic].” By approving these zoning changes, PA acknowledged that the housing shortage, particularly for AH, “threatens the city’s prosperity, diversity, stability, environment, quality of life, and community character.”

The PA City Council has created many documents that address affordable housing, including the Comprehensive Plan, the Housing Element, Title 18 of the Municipal Code, and numerous ordinances, zoning maps, reports, studies, and design and development guidelines:

- Housing Work Plan
- Coordinated Area Plans (CAP)
- Planned Home Zones (PHZ)
- Priority Development Areas (PDA)
- Affordable Housing Overlays
- Workforce Housing Overlays
- Housing Incentive Programs

There has been some AH success in the current RHNA cycle. For example, a 2019 Palo Alto Weekly article announced, “First Affordable-Housing Project in Seven Years Wins Approval.” Yet, as the headline demonstrates, PA is not making rapid progress in meeting the community’s AH needs.

In January 2020, the PA Planning and Development Services Department updated City Council on housing progress. Staff was not optimistic about the City’s ability to meet its RHNA goals. The update warned that “many of the conditions that precipitated the [2018 Council] Colleagues’ Memo … continue” and that “the lack of affordable housing at all income levels contributes to” many other problems PA is experiencing, such as “traffic congestion, increased motorist travel time, … greater greenhouse gas emissions,” and the difficulty hiring and retaining low-wage workers.


88 Ibid.

These planning documents offer different levers to help AH projects, but there have been few results. To match AH outcomes with their policy goals and campaign platforms, PA leaders need to employ best planning practices such as creating specific planned areas with identified densities, setbacks, height limits, etc., that support AH development. The PA City Council should identify specific regions where zoning will allow AH to be feasible and clarify and simplify zoning requirements. This should be done with wide community input and education.

Compact, comprehensive, and clear plans coupled with 1-to-2-year strategic plans with specific outcomes would give the PA City Council a powerful tool to help make AH development viable. (Finding 6)

Mountain View: effective reporting

Mountain View reports on its plans in a variety of ways. As discussed above in the Community Support section, MV City councilmembers conduct annual conversations with residents. The MV Planning Division’s website has the precise plans, often with supporting documentation and details. In addition, the MV Planning Division annually presents a Housing Element Annual Progress Report to the City Council (and RHNA). This report is accompanied by a cover memo that summarizes the specific actions and achievements made during the year, which makes the City’s accomplishments easy to identify and quantify.

The MV 2015-2023 Housing Element text is available on the City’s website. However, a search of the City’s website does not easily reveal any 2015-2023 annual updates. The most prominent search result is a link to the 2023-2031 Housing Element Update on the Community Development website. A version of the 2020 Housing Element Annual Update is provided as an attachment to the March 3, 2021 agenda of the MV Environmental Planning Commission as a staff report.

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91 City of Mountain View, Precise Plans.


Mountain View should update its website to include all the annual Housing Element Progress Reports. (Finding 7)

Palo Alto: reporting confusion

The Civil Grand Jury found that there are so many plans—with documents, specific rules, and details—that it is difficult for PA residents to understand where AH is planned, what specific design elements zoning would permit (density, height, setbacks, etc.), and what public benefits might accompany each project. Since there is often no linked text, the myriad of plans, overlays, and other documents are also difficult to find when mentioned on a website.96

Annual reports are an excellent way to communicate AH progress. This past year, PA’s Planning Department submitted a memo with its 2020 Comprehensive Plan and Housing Element Annual Progress Report to the City Council.97 The Comprehensive Plan’s progress and the Housing Element’s Update are discussed together. The annual Housing Element Update tables identifying progress are difficult to understand and are buried as an accompanying attachment. Palo Alto should more clearly communicate its annual AH progress.

The City’s website can be a powerful tool to aid in communicating AH plans and achievements to the community. Palo Alto is to be commended on the fact that the full text of its 2015-2023 Housing Element is linked from the Planning & Development website and that it has Annual Housing Element Progress Reports from 2015 through 2018.98 It should update this annual list with the missing most recent years. (Finding 8)


96 See City of Palo Alto, Area Plans and Studies: Ongoing Area Plans and Studies, “Priority Development Areas (PDAs) and Priority Conservation Areas (PCAs),” December 12, 2019. This website has two paragraphs announcing the adoption of a PDA for University Avenue/Downtown but there are no linked documents, https://www.cityofpaloalto.org/News-articles/Planning-and-Development-Services/Priority-Development-Areas-PDAs-and-Priority-Conservation-Areas-PCAs.


Supportive Practices

Defining and communicating neighborhood plans is an essential best practice in the creation of AH. But, after plans are adopted, cities must create an environment that supports developers as they consider the construction of housing.

One supportive practice is “streamlining and standardizing the uncertain and time-consuming approval process.”99 The Civil Grand Jury learned that a second supportive practice is to identify a member of the city planning staff who takes the lead on AH development, and who can guide developers through the approval process.

Efficient city review and approval

In Mountain View, the City review and approval process, beginning with the submission of an initial proposal and ending with formal approval by the City Council, averages less than twelve months. Two Mountain View projects with AH units reflect this efficient process:

- 535-555 Walker Dr., with 58 townhouse units, took eleven months. This involved two meetings with the Development Review Committee followed by the MV City Council approval.100
- 394 Ortega Ave., a 144-unit project (including five AH units), took ten months. This involved two meetings with the Development Review Committee, a meeting with the Environmental Planning Commission, and the MV City Council approval.101

The length of time it takes developers in PA to move from proposal to entitlement is significantly longer. Two projects with sizes comparable to MV’s examples are:

- 2755 El Camino Ave., a 57-unit project, took two years and one month from the preliminary screening before the PA City Council to the final City

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Council approval. The approval process involved a preliminary review by the PA City Council, reviews by the Planning Commission and the Architectural Review Board, and a final City Council hearing. This project was complicated by a requirement to amend the zoning code and because architectural plans had to be resubmitted six times.¹⁰²

- 788-796 San Antonio Rd., ground-level retail with 102 units (including 16 below market rate units), took one year and eleven months. The approval process included rezoning, an architectural review, an Environmental Impact Report, and the PA City Council approval.¹⁰³

The Civil Grand Jury found that PA’s lengthy approval process discourages developers from working with the City. If the PA wants to encourage the development of AH, it needs to find ways to streamline the approval process. (Finding 9)

Palo Alto uses Planned Home Zoning to offer developers greater density, higher building height, and less required parking—provided the project includes Below Market Rate (BMR) housing. This type of development requires a preliminary review by the PA City Council, which adds about four months to the time it takes to obtain final approval. This is an additional risk for developers, who not only must extend the project schedule by four months, but after investing in the project, may subsequently discover that the City Council dislikes the proposed development. Palo Alto should take the time to define specific area development plans with the attendant neighborhood involvement, similar to the Precise Plan process in Mountain View.¹⁰⁴ If Palo Alto develops area plans that clearly specify the designs that would be acceptable to the City and the community, not only could preliminary reviews be eliminated, but the developer could invest in the project with more confidence that final approval would be obtained.

Another possibility is to combine public meetings. Currently, after the preliminary review by the PA City Council, the project is reviewed in a public meeting with the PA Planning and


Transportation Commission, and in a separate public meeting with the Architectural Review Board. In contrast, MV combines the two meetings with its Design Review Committee, which is chaired by a planning administrator and two consulting architects. Combining the public review meetings would reduce the time it takes for a project to obtain final approval. This would take away an opportunity for public comment, but this drawback could be effectively neutralized by encouraging public feedback when specific area development plans are defined. Palo Alto planners should explore whether a combined process would speed up its approval timeline.

There may be other ways to reduce the time it takes for developers to get their plans approved by the City. Palo Alto planning staff should consult with Mountain View staff to explore additional ways to streamline their approval process.

**Single role to manage and advocate for affordable housing**

A classic organizational best practice involves “assigning responsibility for outcomes along with the authority to do what is needed to produce the desired results.” A dedicated AH manager would be responsible for outcomes and drive progress toward the city’s AH target. Cities such as Morgan Hill have created a similar affordable housing position leading to strong results. The Civil Grand Jury learned that the Morgan Hill Housing Manager is responsible for achieving the City of Morgan Hill’s AH numbers and coordinates projects, funding sources, and organizations to achieve AH outcomes. Top city leader support is critical to the success of position. With that support, a knowledgeable and dedicated AH manager can be responsible for the AH targets, solve problems, and provide stakeholders with expert advice.

The Civil Grand Jury learned that both non-profit and for-profit developers prefer to work with a city expert, a single point-of-contact, particularly when negotiating about residential and affordable units. According to the Newport Beach Community Development Director, “establishing a dialogue with developers on the front end of projects is important.” By consulting with developers, a city’s AH manager can understand what they need to make a project feasible. This manager can eliminate lengthy negotiations and prevent avoidable delays. With a clear understanding of both sides’ priorities, the AH manager is in a strong negotiation position when working with for-profit developers. (*Finding 10*)

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AH Financing: City Funding and Financial Participation

Affordable housing is expensive

In June of this year, MV announced its Montecito Proposal for 84 affordable units and 147 bedrooms. The planned project development cost totals $88,702,160, or $1,055,978 per unit and $591,348 per bedroom. In December 2020, MV announced its similarly scaled La Avenida project. The total development cost was listed as $78,573,646 for 100 units ($785,736 per unit) and 119 bedrooms ($603,416 per bedroom). In Santa Clara County, 29 projects - totaling 2,969 units and 3,989 bedrooms - have received Measure A funding approval over a three-year span. The average cost per unit of AH for those projects is $678,365. The average cost per bedroom for these same projects is $504,905.

Affordable housing financing is complex

One public official close to this issue noted that the projects require anywhere from 8-15 sources of financing. As an example of this complexity, the funding plan for the Montecito project is shown in Table 5 below. In addition to the Measure A and MV funds, the project required seven additional sources:

<table>
<thead>
<tr>
<th>Permanent Sources</th>
<th>Dollar Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax Credit Equity</td>
<td>$31,085,934</td>
</tr>
<tr>
<td>City of Mountain View</td>
<td>18,000,000</td>
</tr>
<tr>
<td>County of Santa Clara Measure A</td>
<td>16,000,000</td>
</tr>
<tr>
<td>Federal Home Loan Bank-Affordable Housing Program</td>
<td>820,000</td>
</tr>
<tr>
<td>Conventional Loan</td>
<td>9,507,000</td>
</tr>
<tr>
<td>Contributed Developer Fee</td>
<td>5,478,000</td>
</tr>
<tr>
<td>Deferred Developer Fee</td>
<td>877,655</td>
</tr>
<tr>
<td>Fee Waivers</td>
<td>5,473,911</td>
</tr>
<tr>
<td>Deferred Interest from City and County</td>
<td>1,459,660</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$88,702,160</strong></td>
</tr>
</tbody>
</table>

Table 5. Charities Housing Funding Proposal – 1265 Montecito Avenue


The largest source, the Tax Credit Equity, is from a Low-Income Housing Tax Credit Program.\textsuperscript{109}

When the Charities Housing Funding Proposal to build AH at 1265 Montecito Avenue in MV was later announced, the funding mix changed. Santa Clara County took the lead on the project, committing $18M, and MV committed $16M.

**Multi-faceted funding strategies build more affordable housing**

Despite the scale of resources required and the complexity of project financing, AH does get built. However, it is difficult to fully understand the financing and what deals are made because real estate negotiations are done behind closed doors. Real estate negotiations, like those that involve personnel decisions, are not subject to the Ralph M. Brown Act’s public meeting requirements.\textsuperscript{110}

In addition, residential and commercial development projects add costs to local infrastructure and services. When offices and housing are built, more people will live in the community. More classrooms and teachers will be needed. Parks need to be built. Demands for police, fire and utilities providers will increase. The need for other service workers in restaurants and delivery services will increase and those individuals will need places to live. In a post-Prop 13 world, cities must find ways to fund these services. Often that means charging fees on commercial development projects.

Multiple public funding sources are available to achieve AH goals. Federal and state programs play a central role. A prime example is the federal tax credit program in the Montecito project. Both the federal government and the State are committing funding through Homekey (as described below). The federal government is the primary funding source for AH, supplying all the Low-Income Housing Tax Credit money and most of the funding for Homekey. Unfortunately, the State of California is not providing a substantial amount of funding to help cities with this difficult problem.

\begin{flushright}
109 The Low-Income Housing Tax Credit is a federal resource, administered by the states, available to support affordable housing. Developers receiving an award use the tax credits to raise equity capital from investors. The tax credit gives investors a dollar-for-dollar reduction in their federal tax liability in exchange for equity. The tax credits are claimed over a ten-year period.

\end{flushright}
Santa Clara County plays an important fiscal role as well. Measure A, a bond approved by voters in 2016, provides $950M to build AH.\textsuperscript{111} Santa Clara County is commended for its support of the County’s AH needs.

Private organizations such as the Housing Trust Silicon Valley also play a role. Their Tech Fund enables private individuals and Bay Area employers to invest in AH projects.\textsuperscript{112}

**City Affordable Housing funding challenges and opportunities**

The task at the city level is twofold. First, it must leverage all possible external funding from federal, state, and county sources. The Montecito and La Avenida projects are good examples of leveraging from city and county funds, including funds from Measure A.

Second, cities must contribute directly. An excellent recent example of this occurred when MV contributed $15M to the La Avenida Project and $16M to the Montecito Project. It is critical for cities to contribute funding since city funds are often the first—and most necessary—step to acquiring other external funding sources.

Cities can contribute directly by:

1. Developing local pools of funding. For example, until recently, MV had a fund of $69M to finance AH and support the cost of new infrastructure. (Finding 11) Mountain View built its AH fund through linkage or impact fees (fees imposed on property developers by municipalities for the new infrastructure required to accommodate new development). These fees are paid by office space developers. Palo Alto, with its annual cap on office space development, has severely restricted this source of funding.\textsuperscript{113}

2. Waiving or deferring fees where AH is provided. The Montecito project is an example.

3. Negotiating other benefits to have developers include AH units. For example, allowing additional height, less required parking, or increased Floor Area Ratio (FAR), which is the size of a building’s floor area in relation to the parcel size on which the building is located. For example, a market rate housing project can be transformed by trading increased density


for more affordable units, or by obligating the developer to build or buy AH elsewhere. Both MV and PA have used these methods to incentivize housing development. Mountain View has had a greater degree of success, in part because it has been much more aggressive with office development.

4. Contributing city-owned land. The inventory of available city land can have a significant impact on the cost and risk of building AH.

5. Using tax increment financing. As property taxes rise above a base year, the added amount, or the “increment,” could be used to finance AH and/or needed infrastructure. To do this, some of the increase in property tax revenue that has traditionally supported operations like the police and fire departments would be redirected to AH. No new taxes would be required because this is a diversion of property taxes from other services. This approach has long been in use in the United States and elsewhere but has many legal complications that would need to be addressed.

6. Establishing new ongoing sources of revenue by relying on a broader base of payors rather than an individual project developer. Revenue could include new business taxes, fees on real estate activity such as transfer taxes and recording fees, or parcel taxes. Both PA and MV are exploring these opportunities. Mountain View changed its business licensing tax in 2018 and currently raises about $6M per year. At this time, MV intends to spend these funds on capital projects related to commuting activity instead of AH. The increased AH housing targets in the next RHNA cycle may cause MV and PA to consider asking voters to consider increasing local property taxes as part of their funding solution.114 (Finding 12)

Mountain View’s success in developing a local housing fund enabled the City to issue several Notices of Funding Availability (NOFAs).115 These substantial NOFAs, 2014 ($12.5M), 2016 ($36M), and 2018 ($22M), encouraged developers to come forward with AH proposals.116 Mountain View’s commitment to AH funding set the stage for leveraging other sources of financing to build affordable housing projects.

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115 Notice of Funding Availability is a public notice issued by a governmental entity which announces the availability of funding for a specific purpose and can be requested through an application process. It is typically awarded competitively for proposals that achieve an outcome desired by that organization.

100% affordable housing projects vs. mixed-use projects

There are two main types of AH projects. The first is the 100% AH type in which only housing is built, often by a non-profit organization. The second type is a mixed-use project. In mixed-use projects, the developer delivers a combination of occupant units, including some or all of office space, retail space and housing. Mountain View and Palo Alto have differing views on the relative use of these two project types.

The Montecito and La Avenida projects are examples of strong public funding for 100% AH projects. Both projects make use of significant County Measure A funds and MV pooled funds. That said, building 184 units and 264 bedrooms required committing $34M, almost 50% of the MV Development Fund. One hundred percent AH projects may be too costly for cities to afford, particularly if cities cap commercial development and the fees or inclusionary units that such development generates.117

An alternative to 100% city-financed AH is the Gateway Master Plan (“Plan”) announced by MV.118 This large mixed-use project located at the Shoreline Boulevard entrance to MV’s North Bayshore neighborhood is a 29-acre project spanning land owned by Google, SyWest and MV. The Plan provides for 500,000 square feet of office space, 300,000 square feet of entertainment/restaurants and retail, and a 200-room hotel. After earlier attempts by Google and SyWest to agree on a plan failed, MV took the initiative and proposed this project.

The Gateway Plan provides up to 2,800 residential units. Twenty percent of those units (560) are affordable units. While the publicly accessible plan does not include financing data, the heavy office space and retail space components create a mixed-use blend that likely makes the project profitable for the two property owners. Mountain View contributed land to the deal and offered zoning that increased the FAR as an incentive. At the time of this report, Google likes the Plan, while SyWest has said it doesn’t meet its profitability requirements.119

Mixed-use projects typically involve substantial negotiations between a developer and a city. Developers need zoning concessions (height, parking, density) or other concessions such as reduced city fees. Cities need AH units or other public benefits in return for those concessions.

117 Inclusionary units are affordable housing units that a developer includes in a project—typically at a city-mandated percentage (e.g., 15 or 20%) of the total project units approved.

118 Martin Alkire, North Bayshore Gateway Master Plan.

Although each project is unique, including profitable office space in the project underpins the developers’ ability to provide AH and other community benefits. Achieving AH goals require that a balance be found between the community’s needs and the developer’s profitability requirements. (Finding 13)

Unintended consequences of a commercial project focused funding approach

In addition to the benefits of mixed-use projects, the Gateway Project poses an important question: When a city permits more office space to be built, are enough units of AH created to support the service workers needed because of the increased office space? Gateway will generate at least three types of service worker demands:

- The new office buildings will require maintenance, landscaping, food service, and security workers.
- The project’s restaurants, retail, and hotel operations will require service workers.
- There will also be impacts throughout the city - police, fire, teachers, grocery clerks, and others.

A very large percentage of the workers in the list above will be low-income employees and will require AH. At the high end of the Gateway Plan, the project will provide 560 affordable units potentially housing approximately 1,100 service workers.120 Is that enough? (Finding 14)

Homekey

The State of California has created significant housing funding through Homekey, which combines both state and federal funds.121 Cities and the County can use these funds to create affordable housing for the homeless and other vulnerable populations. In one such affordable housing implementation, MV has partnered with the State, the County, and a private builder (LifeMoves)


to construct 100 units and 124 beds of Homekey housing. The Homekey funding for this project is $14.4M. Occupancy began in the spring of 2021. Palo Alto is also considering a similar Homekey project.

The Homekey/LifeMoves target population in MV is homeless families, seniors, and disabled individuals. This program is intended to house people for 4-6 months, and they will subsequently need to find permanent AH.

FINDINGS AND RECOMMENDATIONS

Finding 1

The Civil Grand Jury commends the City of Mountain View for prioritizing and exhibiting strong, visible support for affordable housing and progress towards Regional Housing Needs Allocation targets.

No recommendation.

Finding 2

The Civil Grand Jury commends the City of Mountain View for creating a multi-tiered communication plan that both communicates the value of affordable housing to all stakeholders and addresses their issues. This has engendered strong community support for affordable housing leading to many successful projects.

No recommendation.

Finding 3

The Palo Alto City Council has not taken a leadership role in developing community support for affordable housing planning and projects.

Recommendation 3

The City of Palo Alto should research how other cities foster support for affordable housing and develop a communication plan focused on increasing community support for affordable housing. The plan should be developed and made available to the public by June 30, 2022.

Finding 4

Palo Alto City councilmembers do not play a strong enough leadership role in personally engaging in community education and discussion to aid in resident acceptance of affordable housing.

Recommendation 4

The City of Palo Alto should conduct a “lessons learned” analysis from the 4-year unsuccessful North Ventura Coordinated Area Plan planning process. The City of Palo Alto should create an
improved process to bring residents to a shared understanding of the needs and complexities of affordable housing development. This process should include direct involvement of Palo Alto City elected leaders in community outreach. These recommendations should be completed by June 30, 2022.

**Finding 5**

The *Housing Element Plan* and land-use changes are foundational to supporting affordable housing, but they are not enough. Affordable housing also needs cities to create area-specific land-use and zoning plans like the City of Mountain View’s Precise Plans. Mountain View has also prioritized affordable housing development by using its planning processes to specifically identify a set of projects and actions within a concrete time frame. The City of Mountain View is to be commended for both its use of Precise Plans and its short-term City Strategic Planning process.

No recommendation.

**Finding 6**

The City of Palo Alto’s multiplicity of planning policies and documents creates lengthy processes and can lead to frustration for all parties, including neighborhoods as well as developers. The City of Palo Alto does not have a comprehensive set of plans organized by area or neighborhood that include all zoning elements and regulations that could support AH. Current plans do not clearly and concisely identify where affordable housing could be built with design and density acceptable to the City of Palo Alto and the community.

**Recommendation 6a**

The City of Palo Alto should identify, by March 31, 2022, three or four areas where significant affordable housing can be built.

**Recommendation 6b**

The City of Palo Alto should agree, by June 30, 2022, to task its planners to create realistic plans for each identified area in consultation with residents and developers.

**Finding 7**

Mountain View Planning Division’s summary memo to the Mountain View City Council provides a clear, concise update on progress toward *Housing Element* goals. The City of Mountain View is commended for the clarity and conciseness of its *Annual Housing Element Progress Update* to the
Mountain View City Council. However, the *Annual Housing Element Progress Updates* with cover memos to the Mountain View City Council cannot be found easily by the public on the city’s website.

**Recommendation 7**

The City of Mountain View should publish its *Annual Housing Element Updates* and the summaries (in an appropriate form) on the city’s website by June 30, 2022.

**Finding 8**

Combining the City of Palo Alto’s Housing Element Annual Update and the Comprehensive Plan Update with one cover memo does not communicate city progress in either area clearly.

**Recommendation 8**

The City of Palo Alto should publish the latest two years of its *Housing Element Annual Updates* and cover memos summarizing annual progress to the city’s website by June 30, 2022. To better communicate to the public, the *Housing Element Annual Updates* and the *Comprehensive Plan Updates* should be separated.

**Finding 9**

The length of time it takes developers to get their plans approved is significantly higher in the City of Palo Alto compared to the City of Mountain View. This discourages developers from proposing residential development in Palo Alto.

**Recommendation 9a**

Once the guidelines for developments are clearly defined in area plans, the Palo Alto City Council preliminary review could be eliminated. The City of Palo Alto should establish a schedule by June 30, 2022, for defining and accepting the area plans identified in Recommendation 6a.

**Recommendation 9b**

The City of Palo Alto should explore combining the Planning and Transportation Commission and Architectural Review Board reviews into a single review, as is done in Mountain View. Palo Alto City staff should also consult with Mountain View planners to investigate ways to further
streamline the approval process. Recommendations for changes to the planning review process should be proposed by June 30, 2022.

Finding 10

Developers (both for-profit and non-profit) find it very useful to work with a designated individual who is responsible for the affordable housing target and coordinates all activities across developers, funding sources, city council, planning departments, and other stakeholders to enable progress on projects.

Recommendation 10a

The City of Palo Alto should identify an Affordable Housing Manager who can be responsible for the affordable housing target and ensure coordination among stakeholders by June 30, 2022. This role should be the primary focus of this individual and should have the support of Palo Alto’s City Council.

Recommendation 10b

The City of Mountain View should identify an Affordable Housing Manager who can be responsible for the affordable housing target and ensure coordination among stakeholders by June 30, 2022. This role should be the primary focus of this individual and should have the support of Mountain View’s City Council.

Finding 11

In the past decade, the City of Mountain View has created substantial affordable housing funding derived both from City revenues (fees, charges to developers, etc.) and from external funding. However, the City of Mountain View’s fund is diminishing and needs to be built up.

Recommendation 11

The City of Mountain View should develop a specific affordable housing funding plan to cover its needs for the next five years by July 30, 2022.
Finding 12

The City of Palo Alto does not have a multi-faceted affordable housing funding strategy (including creating a fund for affordable housing as well as proactively leveraging all potential external funding sources) that would encourage it to build more below market housing.

Recommendation 12a

The City of Palo Alto should create a plan with specific goals and timelines by July 30, 2022, to build up the affordable housing fund considering tools such as business tax, document tax, bond measure, and property tax.

Recommendation 12b

The City of Palo Alto should create a Memorandum of Understanding with Santa Clara County by July 30, 2022, to establish goals and actions to leverage Measure A bond funding and advance identified affordable housing projects.

Finding 13

One hundred percent affordable housing projects are more reliant on scarce city funds and other resources compared to mixed-use projects that combine housing with commercial space. Having a city-wide portfolio of both 100% affordable housing projects and mixed-use projects will yield the greatest number of units and best utilize available funds.

Recommendation 13

The City of Palo Alto should include both mixed-use and 100% affordable funding opportunities in its affordable housing plan referred to in Recommendation 12a by July 30, 2022.

Finding 14

Relying on commercial development to fund affordable housing has the unintended consequence of increasing the need for affordable housing.
Recommendation 14

By July 30, 2022, both the City of Palo Alto and the City of Mountain View should require a Housing Impact Study in the approval process for new commercial development, that informs decision-makers about how the proposed project affects the job-to-housing ratio.
REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Civil Grand Jury requests responses as follows from the following governing bodies:

<table>
<thead>
<tr>
<th>Responding Agency</th>
<th>Finding</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>The City of Mountain View</td>
<td>7, 10, 11, 14</td>
<td>7, 10b, 11, 14</td>
</tr>
<tr>
<td>The City of Palo Alto</td>
<td>3, 4, 6, 8, 9, 10, 12, 13, 14</td>
<td>3, 4, 6a, 6b, 8, 9a, 9b, 10a, 12a, 12b, 13, 14</td>
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This report was **ADOPTED** by the 2021 Civil Grand Jury of Santa Clara County on this __________ day of _______________, 2021.

________________________________________
Ms. Karen Delaney
Foreperson
OVERVIEW

The City of Palo Alto appreciates the Grand Jury’s detailed work on this important issue. We agree with many of the Grand Jury’s recommendations. We thank the Grand Jury for its time and consideration.

We believe that the strongest parts of the report were useful ideas for streamlining housing review and approval processes; and the section on financing dynamics for Affordable Housing.

1. Palo Alto Affordable Housing Supply

Palo Alto has long had one of the County’s stronger records in supporting affordable housing and ranks second among cities in the County for affordable housing production as a percentage of total housing. Even compared to larger communities such as Sunnyvale and Mountain View, Palo Alto has many hundreds more affordable housing units (see Figure 1).

![Figure 1](https://siliconvalleyathome.org/resource-map/existing-affordable-housing-assets/)

Figure 1 Below Market Rate Housing as a % of Total Housing Stock

2. “Net-of-Demand” Impacts of Developments on Affordable Housing.

The Grand Jury study focuses strictly on new production during the period from 2015 to 2019. During this period Palo Alto was among the first on the Peninsula to adopt policies to address housing demand, and not just supply. Palo Alto has also maintained and renovated existing affordable housing stock to maintain approximately 8% of its total housing inventory as affordable housing.

A fundamental issue jurisdictions are struggling with is that a given land-use policy or project can simultaneously influence both the supply and demand for affordable housing. Whether cities consider both the demand and supply impacts, or just the supply in isolation, makes an enormous difference in how to evaluate a project’s housing availability and affordability impacts.
When demand is considered (Appendix 1), during the 2015-19 period neither Palo Alto nor Mountain View effectively increased their affordable housing. Instead, both cities saw declines in it with Mountain View experiencing more than five times the decline as Palo Alto (Figure 2).

<table>
<thead>
<tr>
<th>City</th>
<th>New AH Supply (Supply-Only)</th>
<th>2015-2019 New Jobs</th>
<th>New AH Demand</th>
<th>New AH Supply (Net-of-Demand)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Palo Alto</td>
<td>166</td>
<td>4,174</td>
<td>671</td>
<td>(505)</td>
</tr>
<tr>
<td>Mountain View</td>
<td>430</td>
<td>20,748</td>
<td>3,336</td>
<td>(2,906)</td>
</tr>
<tr>
<td>Total 2 Cities</td>
<td>596</td>
<td>24,922</td>
<td>4,007</td>
<td>(3,411)</td>
</tr>
</tbody>
</table>

Sources: Grand Jury Report, ACS 5-yr data, 0.67/24% model Appendix 1)

Figure 2 Affordable Housing Supply vs “Net-of-Demand” Affordable Housing Supply

“Net-of-demand,” the two cities’ total production was not a 596-unit gain, but a 3,411-unit loss. Although the RHNA process counts only the gain, the loss leaves several thousand actual lower-income residents with no nearby place to live.

This issue is of particular relevance to mixed-use plans, in which housing supply and demand are created directly together. Palo Alto believes that in the mid-Peninsula, the economics of private developer investment now make for-profit mixed-use projects with positive “net-of-demand” affordable housing nearly impossible without subsidies. For example, one North Ventura Coordinated Area Plan (NVCAP) property owner has proposed to build 508 new housing units, including 76 affordable (<120% AMI), in exchange for approval of 200,000 square feet of new office space (Appendix 2). Per the “Adjusted KM 2016” demand model in Appendix 1, the commercial component would create a new affordable housing need of 232 units — three times the project’s supply. Whether approving this project counts as an increase of 76 affordable units or a loss of 156 depends on whether one considers demand.

Such projects have the paradoxical effect of apparently boosting RHNA performance, while actually reducing net availability of affordable housing; thereby increasing low-income displacement (Appendix 3). We view this as a structural problem of the current RHNA process. As a result of this dynamic, we believe cities with expensive land and high jobs-housing ratios, like our own, should be very cautious to use the Mixed-Use approach. This issue will reappear multiple times in our response to the Grand Jury recommendations.

FINDINGS AND RECOMMENDATIONS

Finding 1

_The Civil Grand Jury commends the City of Mountain View for prioritizing and exhibiting strong, visible support for affordable housing and progress towards Regional Housing Needs Allocation targets._

City of Palo Alto Response: NA

Finding 2
The Civil Grand Jury commends the City of Mountain View for creating a multi-tiered
communication plan that both communicates the value of affordable housing to all stakeholders
and addresses their issues. This has engendered strong community support for affordable
housing leading to many successful projects.

City of Palo Alto Response: NA

Finding 3

The Palo Alto City Council has not taken a leadership role in developing community support for
affordable housing planning and projects.

City of Palo Alto Response: Partially Agree / Partially Disagree

The City disagrees that the Council has not taken a leadership role in developing support for
affordable housing planning initiatives and projects once they are identified. Specifically, each of
the last two years, the City Council adopted “Housing for Social and Economic Balance” as one
of its four city “Priorities”. Councilmembers actively participate in neighborhood meetings and
the City actively championed the Buena Vista rescue ($15M) project and filed an eminent
domain action to preserve Buena Vista. The City financially supported the Wilton Court project
($22M), and the 231 Grant Affordable Teacher-Housing project ($3M). Councilmembers have
also advocated for a land-use strategy that balances new jobs and new housing creation, and
zoning actions (Planned Home Zoning (PHZ), Housing Incentive Program (HIP) and Affordable
Housing Overlay that provides the City’s highest zoning and approval streamlining incentives for
Affordable Housing projects. Recently, the Council initiated an RFP for piloting housing on city
owned parking lots in our downtowns, with a preference for Affordable Housing.

The City agrees that there can be more Council advocacy to initiate and solicit affordable
housing projects.

Recommendation 3

The City of Palo Alto should research how other cities foster support for affordable housing and develop
a communication plan focused on increasing community support for affordable housing. The plan should
be developed and made available to the public by June 30, 2022.

City of Palo Alto Response: The recommendation has not yet been implemented but will be
implemented before the end of the 2022 calendar year. Palo Alto will research other
jurisdictions within the County and report back to the City Council with a recommended
communication strategy intended to increase community support for affordable housing. Part of
this communication strategy is anticipated to include actively surveying residents as part of an
upcoming business tax ballot initiative; preliminary results suggest the community is supportive
of a portion of the business tax revenue to be used for affordable housing. Moreover, the City’s
website will be updated to include consolidated affordable housing policies and access to other
relevant information and documents.

Finding 4
Palo Alto City council members do not play a strong enough leadership role in personally engaging in community education and discussion to aid in resident acceptance of affordable housing.

**City of Palo Alto Response: Disagree.**

The City Council disagrees with this finding in both that the Council does play an active role in engaging the community on affordable housing policies and projects and our data shows there is already widespread community support and acceptance of below market rate housing. Recent projects, such as the 100% affordable housing project at Wilton Court and 321 Grant Affordable Teacher Housing Project have been supported by both housing advocates and neighborhood groups.

In addition to recent polling for our upcoming business tax ballot measure, the annual citizen survey is a statistically representative survey of residences and indicates widespread support of affordable housing. Recent solicitation of council priorities also indicates support for a focus on below-market rate housing.

For several years, community pushback to development in Palo Alto has focused mainly on additional commercial office projects, and the community has supported office development restrictions, including in mixed-use developments where commercial-driven housing demand exceeds housing supply. This tension, not resistance to affordable housing, has been and continues to be one of the major constraints in the City’s NVCAP planning.

**Recommendation 4**

*The City of Palo Alto should conduct a “lessons learned” analysis from the 4-year unsuccessful North Ventura Coordinated Area Plan planning process. The City of Palo Alto should create an improved process to bring residents to a shared understanding of the needs and complexities of affordable housing development. This process should include direct involvement of Palo Alto City elected leaders in community outreach. These recommendations should be completed by June 30, 2022.*

**City of Palo Alto Response:** This recommendation will be implemented upon completion of the NVCAP process; however, the recommended timeline of June 2022 is premature. The NVCAP process is not complete, and it is inaccurate to call the planning process unsuccessful. Specifically, Council has recently provided direction (December 2021) on the preferred concept plan that will become the draft plan reviewed for CEQA compliance and brought back to Council for final adoption. Meanwhile, negotiations with property owners are continuing.

Moreover, while affordable housing is a component of this planning initiative it is not the only project component of community interest; others relate to improved circulation, enhanced open space opportunities, balanced growth, and a focus on sustainable development. The NVCAP process cannot be viewed exclusively from the lens of affordable housing. At the appropriate time the City will conduct a best-practice analysis to determine lessons learned regarding the totality of the project.

**Finding 5**

*The Housing Element Plan and land-use changes are foundational to supporting affordable housing, but they are not enough. Affordable housing also needs cities to create area-specific land-use and zoning*
plans like the City of Mountain View’s Precise Plans. Mountain View has also prioritized affordable housing development by using its planning processes to specifically identify a set of projects and actions within a concrete time frame. The City of Mountain View is to be commended for both its use of Precise Plans and its short-term City Strategic Planning process.

City of Palo Alto Response: NA

Finding 6

The City of Palo Alto’s multiplicity of planning policies and documents creates lengthy processes and can lead to frustration for all parties, including neighborhoods as well as developers. The City of Palo Alto does not have a comprehensive set of plans organized by area or neighborhood that include all zoning elements and regulations that could support AH. Current plans do not clearly and concisely identify where affordable housing could be built with design and density acceptable to the City of Palo Alto and the community.

City of Palo Alto Response: Partially Agree / Partially Disagree.

The City agrees that it does have a multiplicity of planning processes, which may benefit from further rationalization.

We are not persuaded, however, that specific plans are a primary planning tool to achieve more below market rate housing. We believe the primary challenges to affordable housing are economic, and the same economics apply equally in both the presence and absence of specific plans. Palo Alto has successfully done area-specific plans in the past, such as its 1999-2004 South of Forest Avenue (SOFA) plan.

Among the two main mechanisms for financing below market rate housing, the Grand Jury points out that specific area plans can be particularly helpful in leveraging mixed-use development. However as previously noted, Palo Alto believes the economics of affordable housing in the Peninsula preclude most practical use of mixed-use development as an affordable housing tool, once “net-of-demand” housing is considered. For this reason, we do not see this as a valid, primary approach. The other primary funding mechanism, 100% affordable housing projects using public funds, does not derive as much benefit from specific plans.

Recommendation 6a

The City of Palo Alto should identify, by March 31, 2022, three or four areas where significant affordable housing can be built.

City of Palo Alto Response: This recommendation has been implemented. Affordable housing is permissible throughout the city where multifamily and commercial development is allowed. Under its Housing Incentive Plan (HIP), the City has also identified three specific large zoning districts where affordable housing developers can take advantage of increased development incentives that convey more benefits than can be achieved through state density bonus law. For 100% affordable housing projects, these three areas include the CS, CN and CC-2 zoned properties along El Camino Real, the CC-2 zoned properties around California Avenue and CD-C zoned properties Downtown (University Avenue). These projects are also allowed streamlined approval processes. Additionally, the City is currently updating its housing site inventory,
programs and policies for our Housing Element which is anticipated to identify further opportunities in various areas of the City, including along Fabian Way and San Antonio Road.

Recommendation 6b

The City of Palo Alto should agree, by June 30, 2022, to task its planners to create realistic plans for each identified area in consultation with residents and developers.

City of Palo Alto Response: This recommendation will not be implemented because it is not warranted; as described above, we believe specific plans are not required for affordable housing production, especially for non-profit and publicly-funded projects.

We believe the primary challenges to affordable housing are economic, and the same economics apply equally in both the presence and absence of specific plans. Further, the City has a land-use strategy that balances new jobs and new housing creation, and zoning actions (Planned Home Zoning, Housing Incentive Program, Affordable Housing overlay) that specifically target affordable housing without encouraging large, new commercial development. As noted in the City's response to Recommendation 9b below, the City will also examine opportunities to further streamline its Affordable Housing overlay process.

Finding 7

Mountain View Planning Division’s summary memo to the Mountain View City Council provides a clear, concise update on progress toward Housing Element goals. The City of Mountain View is commended for the clarity and conciseness of its Annual Housing Element Progress Update to the Mountain View City Council. However, the Annual Housing Element Progress Updates with cover memos to the Mountain View City Council cannot be found easily by the public on the city’s website.

City of Palo Alto Response: NA

Recommendation 7

The City of Mountain View should publish its Annual Housing Element Updates and the summaries (in an appropriate form) on the city’s website by June 30, 2022.

City of Palo Alto Response: NA

Finding 8

Combining the City of Palo Alto’s Housing Element Annual Update and the Comprehensive Plan Update with one cover memo does not communicate city progress in either area clearly.

City of Palo Alto Response: Partially Agree / Partially Disagree

Combining reports places all relevant information in one place and provides clarity to residents and decision makers, as the Housing Element is a component of the General Plan. The reports are consistent with state reporting requirements. However, it is agreed that the reports can be made more readable and summarize pertinent information to support broader public understanding of the City’s progress.
Recommendation 8

The City of Palo Alto should publish the latest two years of its Housing Element Annual Updates and cover memos summarizing annual progress to the city’s website by June 30, 2022. To better communicate to the public, the Housing Element Annual Updates and the Comprehensive Plan Updates should be separated.

City of Palo Alto Response: The recommendation has been implemented with respect publishing the latest two years of the City’s Housing Element Annual Update on the City’s website. This information is now available online: https://www.cityofpaloalto.org/Departments/Planning-Development-Services/Long-Range-Planning/Housing-Policies-and-Programs/Housing-Element-2015-2023.

City of Palo Alto Response: The recommendation will not be implemented because it is not warranted with respect to separating out the comprehensive plan and housing element annual reports. However, for the 2023 reporting period, staff will explore opportunities to improve the readability and format to achieve the report recommendation.

Finding 9

The length of time it takes developers to get their plans approved is significantly higher in the City of Palo Alto compared to the City of Mountain View. This discourages developers from proposing residential development in Palo Alto.

City of Palo Alto Response: Partially Agree / Partially Disagree

We are not familiar with other cities' processes or data on time-to-process. The report cites some anecdotal examples. For code compliant projects, the City’s review processing times are not anticipated to be significantly greater than other jurisdictions and typically only require review by the City’s Architectural Review Board. There are other applications, including some 100% affordable housing projects or Planned Home Zoning applications that deviate from local zoning standards and require City Council action. While time is certainly a consideration in land use development there are other factors that may entice or discourage a developer from proposing an application, including factors beyond the City’s control.

Recommendation 9a

Once the guidelines for developments are clearly defined in area plans, the Palo Alto City Council preliminary review could be eliminated. The City of Palo Alto should establish a schedule by June 30, 2022, for defining and accepting the area plans identified in Recommendation 6a.

City of Palo Alto Response: The recommendation will not be implemented because it is not warranted, as discussed under Finding 6. The City is not persuaded that area plans are inherently a solution to providing more affordable housing. Rather, the City believes the primary challenges to affordable housing are economic, and the same economics apply equally in both the presence and absence of specific plans.

The preliminary review process referenced in the recommendation is voluntary and optional. It is not a requirement for code compliant projects; rather, it is to reduce a developer’s risk of fully
developing a non code-compliant project, without some confidence the City Council will view it favorably. We agree the review is not needed for code-compliant projects and in any area-specific plans, should we do them in the future.

Recommendation 9b

The City of Palo Alto should explore combining the Planning and Transportation Commission and Architectural Review Board reviews into a single review, as is done in Mountain View. Palo Alto City staff should also consult with Mountain View planners to investigate ways to further streamline the approval process. Recommendations for changes to the planning review process should be proposed by June 30, 2022.

City of Palo Alto Response: The recommendation requires further analysis. The vast majority of the applications processed in the City do not require review by both the Architectural Review Board and the Planning and Transportation Commission. This is because these bodies have different statutory authority and so by dividing their work, greater efficiency is created and the workload divided among two volunteer bodies.

Some projects seeking an affordable housing overlay approval, which conveys greater height and density than can be achieved with the City’s base zoning requirements, do, however, require review by the City Council, Planning and Transportation Commission, and Architectural Review Board. Prior to June 16, 2022, the Planning and Development Services department will present an option to the City Council to streamline the review of 100% affordable housing projects such that only Architectural Review Board review is required, unless appealed to the City Council. In developing its recommendations, staff will consult with Mountain View planners to better understand its approach for streamlining affordable housing projects.

Finding 10

Developers (both for-profit and non-profit) find it very useful to work with a designated individual who is responsible for the affordable housing target and coordinates all activities across developers, funding sources, city council, planning departments, and other stakeholders to enable progress on projects.

City of Palo Alto Response: Agree

The City agrees a designated individual coordinating all affordable housing-related activities would be helpful.

Recommendation 10a

The City of Palo Alto should identify an Affordable Housing Manager who can be responsible for the affordable housing target and ensure coordination among stakeholders by June 30, 2022. This role should be the primary focus of this individual and should have the support of Palo Alto’s City Council.

City of Palo Alto Response: The recommendation requires further analysis. The City sees value in having a single point of contact for affordable housing projects to the extent feasible. Prior to June 16, 2022, as part of the City’s annual budget process, the City Council will consider whether there are sufficient funds to staff such a position or other personnel adjustments to provide dedicated attention to affordable housing projects.
Recommendation 10b

The City of Mountain View should identify an Affordable Housing Manager who can be responsible for the affordable housing target and ensure coordination among stakeholders by June 30, 2022. This role should be the primary focus of this individual and should have the support of Mountain View’s City Council.

City of Palo Alto Response: NA

Finding 11

In the past decade, the City of Mountain View has created substantial affordable housing funding derived both from City revenues (fees, charges to developers, etc.) and from external funding. However, the City of Mountain View’s fund is diminishing and needs to be built up.

City of Palo Alto Response: NA

Recommendation 11

The City of Mountain View should develop a specific affordable housing funding plan to cover its needs for the next five years by July 30, 2022.

City of Palo Alto Response: NA

Finding 12

The City of Palo Alto does not have a multi-faceted affordable housing funding strategy (including creating a fund for affordable housing as well as proactively leveraging all potential external funding sources) that would encourage it to build more below market housing.

City of Palo Alto Response: Disagree

We think the Grand Jury was simply mistaken here; the City has had such an Affordable Housing Fund for many years. From 2015-2019 it sourced approximately $40 million for affordable housing efforts, not including associated infrastructure. The fund currently has about $6 million in it and is anticipated to contribute to the transitional-housing project the Council approved in 2021. The City recently increased its commercial housing impact fees and as noted below, is exploring the possibility of a business tax to support in part, affordable housing projects. Moreover, the City Council recently directed its Finance Committee to further explore other affordable housing funding strategies.

Recommendation 12a

The City of Palo Alto should create a plan with specific goals and timelines by July 30, 2022, to build up the affordable housing fund considering tools such as business tax, document tax, bond measure, and property tax.

City of Palo Alto Response: This recommendation has been implemented and is scheduled to receive further refinement later this year with a possible business tax ballot initiative. The City
has had an Affordable Housing Fund for many years, historically funded primarily through impact and in-lieu fees. Palo Alto has led on inclusionary housing requirements for decades.

In keeping with its view that new commercial development should pay for its associated housing needs, in 2021, the City raised its commercial linkage fee for Affordable Housing to the highest in the Bay Area, $68.50 per square foot, equal to the County’s rate under its “full mitigation” policy as applied to Stanford University.

We are, however, seeking additional new tools to increase the size of our Affordable Housing Fund. One potential funding tool is a business tax, currently in evaluation for the November 2022 ballot, including a spending advisory to contribute to the Affordable Housing Fund. Early polling suggests public sentiment appears to favor such a tax.

Recommendation 12b

*The City of Palo Alto should create a Memorandum of Understanding with Santa Clara County by July 30, 2022, to establish goals and actions to leverage Measure A bond funding and advance identified affordable housing projects.*

**City of Palo Alto Response:** This recommendation requires further analysis as City staff reach out to the County to assess its willingness to enter into an MOU with Palo Alto; staff will begin these discussions by June 16, 2022.

Measure A funds are not blanket-allocated to local jurisdictions; rather, they are applied to eligible individual affordable housing projects. When eligible projects are proposed for Palo Alto, the City and the developer engage the County regarding the allocation of funds to those projects. Various City representatives have over time been in direct or indirect contact with the County to explore funding opportunities for a variety of projects but no Measure A funds have yet been disbursed for a Palo Alto project at the time of this response.

Finding 13

*One hundred percent affordable housing projects are more reliant on scarce city funds and other resources compared to mixed-use projects that combine housing with commercial space. Having a city-wide portfolio of both 100% affordable housing projects and mixed-use projects will yield the greatest number of units and best utilize available funds.*

**City of Palo Alto Response: Partially Agree / Partially Disagree**

In general, Palo Alto will support as many 100% affordable projects as can be funded.

In addition, Palo Alto’s policy is to consider both supply and demand for affordable housing. The City’s PHZ zoning incentivizes mixed-use projects but explicitly requires that housing supply exceed job-linked housing demand in those projects. As discussed previously, and also quantitatively in Appendix 3, we do not believe conventional mixed commercial-residential development generally represents a sustainable approach to fund affordable housing in high jobs-housing ratio cities like Palo Alto.
Historically, most agencies – including the Grand Jury – measured only the supply produced by such plans and projects, and not any associated demand. We believe that mixed-use projects that create more housing demand than supply exacerbate the need for affordable housing rather than reduce that need; and that in high jobs-housing-ratio regions of the Bay Area, this approach is no longer sustainable, and “net-of-demand” is now a better metric.

**Recommendation 13**

*The City of Palo Alto should include both mixed-use and 100% affordable funding opportunities in its affordable housing plan referred to in Recommendation 12a by July 30, 2022.*

**City of Palo Alto Response:** This recommendation has been and is being implemented. The City’s housing work plan and policies in the new housing element will focus on ensuring projects are net-of-demand housing-positive.

In practice, we anticipate that all 100% affordable projects, but few traditional privately-funded mixed-use projects, will meet this criterion.

**Finding 14**

*Relying on commercial development to fund affordable housing has the unintended consequence of increasing the need for affordable housing.*

**City of Palo Alto Response:** Agree

Using ACS 5-year jobs data and the Adjusted Keyser-Marston model (Appendix 1), Palo Alto and Mountain View together created demand for 4,000 affordable housing units from 2015-2019 --- 3,400 more than the 596 units the two cities actually permitted.

![Figure 3: 2015-19 - New Affordable Housing Supply vs New Affordable Housing Demand](image)

Once net-of-demand is measured, this increased 3,400-unit affordable-housing shortage maps to over 8,000 newly-displaced low-income individuals with no identified place to live (assuming ~2.5 persons per household). The “unintended” consequence described by Finding 14 has
concrete human ones. In order to ensure sensible policy, agencies should measure “net-of-demand” affordable housing changes, not simply affordable housing numbers in isolation.

In addition, mixed-use projects that provide more new jobs than housing are also forms of commercial development to fund affordable housing that have the unintended consequences of increasing the need for affordable housing.

Recommendation 14

By July 30, 2022, both the City of Palo Alto and the City of Mountain View should require a Housing Impact Study in the approval process for new commercial development, that informs decision-makers about how the proposed project affects the job-to-housing ratio.

City of Palo Alto Response: This recommendation has been and is being implemented as it relates to the City’s PHZ application process. PHZ projects are required to provide more housing units than needed to offset any net new job generation for commercial land uses. As previously stated, the City limits commercial development through its annual office cap in the zoning code and through land use policies in the comprehensive plan. A Housing Impact Study for other by-right commercial development that is subject to ministerial review, objective standards or design review may be informative to illustrate how a project may be improving or creating more of a jobs/housing imbalance but without actionable policies like the ones employed by Palo Alto, a Housing Impact Study offers little utility and would not likely enable decision-makers to approve or disapprove most projects, unless structured similarly to the PHZ process in Palo Alto.

Numerous nexus and other studies have already established the linkages from commercial development to housing demand, including affordable housing. Additional study is always welcome, but the top factor now is probably agencies’ more consistent adoption of existing Net-of-Demand metrics into land-use policies.

CONCLUSION

The City of Palo Alto appreciates the Grand Jury’s leadership on this important issue. As noted, we agree with several of the Grand Jury’s findings and recommendations and look forward to implementing these items in the coming weeks and months.

As noted, Palo Alto has 8% of its total housing stock as affordable housing. We are proud to have the second highest affordable housing rate of any city in the county based on the percent of total housing stock; and we are addressing the office demand side, which is critical to achieving true progress in meeting the need for affordable housing.

In closing, the City will continue to make progress on this important priority. The City Council recently adopted housing for social and economic balance as a 2022 Council priority and will be adopting a new Housing Element to help guide future affordable housing production. Our Affordable Housing Fund has been an important tool in investing in affordable housing in Palo Alto, and we continue to pursue
additional revenue sources to increase this fund as we look to invest in future affordable housing projects.

APPENDICES

1. Affordable-Housing Demand Models
2. Mixed-Use Affordable Housing Proposal in NVCAP
3. RHNA, Recommendation 13, and Mixed-Use Development Economics
4. Housing Supply and Demand
Appendix 1 - AFFORDABLE HOUSING DEMAND MODELS

Housing costs and availability are influenced by changes in both Supply and Demand. Since land-use policies and also individual actions can influence both factors at once, an understanding of linkages is important for planning.

Various studies have analyzed these linkages. One is a 2016 Keyser-Marston Nexus Study commissioned by the Santa Clara County and used during the County’s “GUP” discussions with Stanford University.¹

The core principle is that job growth attracts new employees to the region, who need housing. A range of affordability levels is needed, because even high-wage office jobs in fields such as software engineering and biotechnology indirectly create housing demand for workers in associated service, transportation, education and other roles.

A. Summary of the 2016 Keyser-Marston Nexus Study for Santa Clara County (Commercial Linkage)

The 2016 Keyser-Marston study analyzes this linkage by looking at factors such as prevailing industry and income profiles and proportions, the housing demand created by different job categories, and the worker density in both office and residential space. KM 2016 makes the following assumptions:

- 300 square feet of office space per employee
- 1.72 workers per household – KM cites this as the Countywide average
- 20% of new jobs sourced by what KM call “declining industry” workers: existing residents who already have housing here, and whose old job is not backfilled by a new employee.

From this, KM calculates that each 100,000 sf of office space creates new households as follows:

- Extremely Low Income (0-30% AMI) 2.6 households 1.7% of total
- Very Low Income (30-50% AMI) 12.0 households 7.7% of total
- Low Income (50-80% AMI) 22.0 households 14.2% of total
- Moderate Income (80-120% AMI) 30.7 households 19.8% of total
- Above Moderate Income (> 120% AMI) 88.0 households 56.6% of total

Per this model, each 1,000 sf of new office space adds 3.3 new jobs, and a demand for 1.6 new households; of which 24% must be 0-80% AMI, and 43% must be 0-120% AMI. Restated, each new office job creates a demand for .47 new households, with the same percentages for 0-80% and 0-120% AMI respectively. In table form:

<table>
<thead>
<tr>
<th>Housing Demand Created By</th>
<th>Keyser-Marston 2016 – County Average</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Housing Units</td>
</tr>
<tr>
<td></td>
<td>EU/VI/LI/MI %</td>
</tr>
</tbody>
</table>

²
B. **Suggested Adjustments for North County and Overcrowding**

The KM 2016 model is a countywide model, and the factors that go into it likely vary between the South, North and West County regions.

- First, employee density in the tech-heavy North County, where office rents are considerably higher than the County average, in 2022 is likely higher than 3.3 employees per 1,000 sf.

- Second, the cited (2016) County average of 1.72 workers per housing unit may not be best for this calculation. Others including California HCD\(^2\) and Working Partnerships USA / Beacon Economics\(^3\) argue that current Bay Area housing is “overcrowded” and lower densities should be used for planning. WPUSA/Beacon recommend a planning target of 1.35 workers per housing unit\(^3\).

- Finally, an estimate that 20% of new jobs are still being taken by workers leaving declining industries feels high at this time in Silicon Valley and especially in the North County.

An adjustment to the base KM 2016 analysis, using 4.0 employees per 1,000 sf office space, 1.35 workers per household, and 10% of new jobs taken by “declining industry” workers, is shown below as “Adjusted KM 2016.”

Additionally, the City of Mountain View has developed a Jobs-Housing Linkage Program as part of its 2019 East Whisman Precise Plan. The Mountain View standard prescribes 3.0 housing units per 1,000 sf office space, at a 50% inclusion rate (ELI/VLI/LI/MI)\(^4\).

These three models are summarized below:

<table>
<thead>
<tr>
<th>Housing Demand Created By</th>
<th>Keyser-Marston 2016 – County Average</th>
<th>Adjusted KM 2016 – North County 2022</th>
<th>Mt View 2019 Jobs- Housing Linkage Program</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Housing Units</td>
<td>ELI/VLI/MI %</td>
<td>ELI/VLI/MI %</td>
</tr>
<tr>
<td>1000 sf Office Space</td>
<td>1.6</td>
<td>24%</td>
<td>43%</td>
</tr>
<tr>
<td>1 New Job</td>
<td>0.47</td>
<td>24%</td>
<td>43%</td>
</tr>
</tbody>
</table>

**Conclusion**

A reasonable range estimate for new housing demand created by office-space development and new jobs in the North County would be:

- Each 1,000 sf office space creates a demand for 1.6-3.0 housing units, at a 24% inclusion rate (ELI/VLI/LI) or a 43% inclusion rate (ELI/VLI/MI)

- Each new job creates a demand for .47-.67 new housing units, at a 24% inclusion rate (ELI/VLI/LI) or a 43% inclusion rate (ELI/VLI/MI)

For Palo Alto, the higher end of these ranges, closer to Mountain View’s, is likely most accurate.
Notes

   [https://osh.sccgov.org/sites/g/files/exjcpb671/files/County%20of%20Santa%20Clara%20Affordable
   Appendix B (Commercial Linkage Analysis) p12

2. **HCD Regional Housing Needs Determination: ABAG June 2021 - December 2030**, California Department of Housing and Community Development (HCD)

3. **The Google Rent Hike**, Working Partnerships USA, June 2019
   [https://www.wpusa.org/files/reports/GoogleRentHike.pdf](https://www.wpusa.org/files/reports/GoogleRentHike.pdf)

4. **Administrative Guidelines for Jobs-Housing Linkage Program**, City of Mountain View, 2019

*Eric Filseth, February 2022*
Appendix 2 – MIXED-USE AFFORDABLE HOUSING PROPOSAL in NVCAP

Tom Gilman tgilman@des-ae.com

Tue 9/14/2021 4:34 PM

To: Council, City city.council@cityofpaloalto.org
Cc: Lait, Jonathan <Jonathan.Lait@CityofPaloAlto.org>; Tanner, Rachael <Rachael.Tanner@CityofPaloAlto.org>; Campbell, Clare <clare.campbell@cityofpaloalto.org>

To the Palo Alto City Council-

In regards to the NVCAP process, the Planning staff has requested from the Jay Paul Company, a response to the concepts presented at the June 2021 City Council meeting.

Based on the Planning documents from that meeting and in discussions with the Staff, the owner needed to take a more detailed look into the numbers to evaluate the potential redevelopment for the 395 Page Mill site.

This has included reviewing several existing conditions:

- Rapidly increasing construction costs
- The considerable investment that he has made to the existing building
- Potential buy-out of the existing tenant’s lease and lease extension possibility
- Major construction cost of building 2 1/2 levels of underground parking

Based on the considerable financial investment that a redevelopment would entail, the Jay Paul Company would be prepared to go along with a redevelopment of the site based on the following:

- Build 508 new living units in a multifamily project with a 15% affordability (BMR) ratio, built in 6-story and 8-story buildings
- Build an additional 200k sf of tech-office space for a total office area of 420K sf on the site, built in a new 8-story tech-office building
- Include a new 2.3 acre public park, plus significant usable green space setbacks totaling an additional 1.3 acres. On average the existing setbacks are 25’, which would be increased to 30’-40’.
- 95% of the parking would be housed in a new 2 1/2 level underground parking garage, opening up a significant portion of the site as green space.
  - The 9.8 acre acre site would have almost 60% open space, (public + private) compared to the current 25%
- The multi-family residential buildings would be highly sustainable, built to CalGreen standards.
- The tech-office buildings would be built to highly sustainable green levels, including LEED Platinum, and Fitwell accredited
- Designing this office building as a Mass-Timber building. This will help ensure that the project is a highly sustainable project with the goal of significant Carbon reduction.
- The Jay Paul Company has an on-going relationship with Magical Bridge Foundation, with whom they have worked in Palo Alto and other communities. They will work with them to consider Magical Bridge play spaces in the proposed Park area.

The owner believes that this location is ideal for this transit-oriented development with Caltrain and multiple bus lines within easy walking distance.
Without these levels of additional office space redevelopment, the owner is not motivated to redevelop the site, given the highly successful development with the current tenancy.

The owner looks forward to helping the City make this NVCAP effort a reality and is available for further conversation.

Thank you,
Tom Gilman, AIA
C. Thomas Gilman, AIA, LEED AP
Principal | President

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Architecture | Interior Design | Landscape Architecture | Structural Engineering | Civil Engineering | Visual Communications | LEED Coordination
Appendix 3 – RHNA, RECOMMENDATION 13, and MIXED-USE DEVELOPMENT ECONOMICS

How much office space would it take for Palo Alto to have reached 33% of its RHNA Cycle 5 VLI/LI target by 2019 – parity with Mountain View – using the Mixed-Use approach?

Per the Grand Jury report, by the end of 2019:

- Palo Alto had reached 15% of its VLI/LI RHNA goals (166 units against a target of 1,123)
- Mountain View had reached 33% of its VLI/LI RHNA goal (430 units against a target of 1,306)

A reasonable question is: suppose Palo Alto wished to reach at least 33% of its RHNA Cycle 5 target using Mixed-Use Development, as indicated by Recommendation 13. How much new office space would have been required?

To achieve 33%, an additional 206 VLI/LI units would be needed. The Adjusted KM 2016 model suggests that 206*2.7*1,000 = 550,000 square feet of new office space would have been adequate; however, the Demand Model does not guarantee this rate would also be economically feasible for a developer.

The Jay Paul NVCAP Page Mill proposal (Appendix 2) provides a recent “economic feasibility” Mixed-Use data point. The proposal suggests that 76 VLI/LI units can be financed by 200,000 sf of office space, or 2,630 sf office per unit.

However, the Page Mill proposal includes MI (81-120% AMI) units; whereas the Grand Jury report considers only VLI/LI (0-80% AMI) units. Using the KM 2016 model, we can adjust the 2,630 sf metric by (43%/24%) to suggest a rate of 4,715 sf office per VLI/LI unit is currently economically viable in Palo Alto.

This suggests that in practice, producing the additional 206 VLI/LI units to reach 33%-of-RHNA using Mixed-Use as in Recommendation 13, could have been achieved by Palo Alto approving roughly 970,000 sf of new office space; creating space for 3,885 new jobs.

To reach not 33% but 100% of Palo Alto’s 2015-2023 RHNA VLI/LI target this way would require roughly 4.5 million square feet of new office space, and 18,000 new jobs.

Note these are “Supply Only” numbers; “Net-of-Demand” numbers for this much office space would suggest actual net losses in the hundreds of units of city VLI/LI housing availability, with corresponding displacement of hundreds or more lower-income residents. This conflict between RHNA performance and low-income displacement, in context of private commercial development as a funding tool for affordable housing, represents a structural problem with the RHNA process as currently measured.

<table>
<thead>
<tr>
<th>Palo Alto Criteria</th>
<th>Net New VLI/LI Supply (units)</th>
<th>Economically Feasible sf Office per VLI/LI unit</th>
<th>New Office Space Needed (sf)</th>
<th>Implied New Jobs</th>
<th>VLI/LI Demand per 1,000 sf Office</th>
<th>Net New VLI/LI Demand (units)</th>
<th>Net-of-Demand VLI/LI Supply (units)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional VLI/LI units to reach 33% of Palo Alto RHNA Target</td>
<td>206</td>
<td>4,715</td>
<td>971,290</td>
<td>3,885</td>
<td>0.65</td>
<td>629</td>
<td>(423)</td>
</tr>
<tr>
<td>Additional VLI/LI units to reach 100% of Palo Alto RHNA Target</td>
<td>957</td>
<td>4,715</td>
<td>4,512,255</td>
<td>18,049</td>
<td>0.65</td>
<td>2,924</td>
<td>(1,967)</td>
</tr>
</tbody>
</table>
Appendix 4 – MANAGING HOUSING SUPPLY AND DEMAND

After the end of the 2008 Recession, the entire Valley added jobs much faster than housing. In 2014, facing record-high and still-escalating jobs-housing ratios, Palo Alto began what became a two-pronged effort to concurrently manage both Demand and Supply for city housing:

- **Demand suppression**: imposed nonresidential development caps in 2015 and 2018 (the latter a citizen ballot initiative). PHZ projects must be net-housing-positive.
- **Supply support**: residential upzoning, including 2018’s “Housing Incentive Program,” residential upzoning of multi-unit and near-transit districts, an Affordable Housing Overlay, and 2019’s “PHZ” tool, which established a vehicle for the city to negotiate relaxed multi-unit design standards in exchange for higher BMR inclusion rates.

This dual-focus “Jobs-Housing First” policy has not been without controversy, including prompting one regional organization’s famous remark, “‘Jobs’ is not a four-letter word!”¹

While supply-side results are still ambiguous, a pipeline of interesting projects has developed. And with the caveats that (1) correlation is not causation, and (2) ACS data is not perfect, there are some positive indicators: Palo Alto job growth appears to have stopped since 2016, while continuing to surge elsewhere in the region; and our jobs-housing ratio appears to have plateaued and may even be edging slightly downwards. Also encouragingly, the rate of appreciation of rental housing costs in the City appears to have slowed since 2015, despite continuing and in some cases accelerating in other job-rich parts of the Valley.
For these reasons we ask the Grand Jury not to simply dismiss this approach; but consider it, and monitor it, as the region evolves over the next several years. Balancing the demand and supply for housing has become a vexing problem for the entire region; multiple approaches should be on the table.

Source: ACS 5-yr data tables B08601, DP05; US Census H1