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. Masks are strongly encouraged if attending in person.

**HOW TO PARTICIPATE**

**VIRTUAL PARTICIPATION**

**CLICK HERE TO JOIN**  [https://cityofpaloalto.zoom.us/j/362027238](https://cityofpaloalto.zoom.us/j/362027238)
Meeting ID: 362 027 238  Phone:1(669)900-6833

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

**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**

**CLOSED SESSION (5:00 – 6:00 PM)**

*Public Comments: Members of the public may speak to the Closed Session item(s); three minutes per speaker.*

1. **CONFERENCE WITH CITY ATTORNEY- EXISTING LITIGATION**  
   Subject: Julio Arevalo v. City of Palo Alto  
   U.S. District Court, Northern District, Case #: 3:20-cv-04157-CRB  
   Authority: Government Code Section 54956.9(d)(1)
SPECIAL ORDERS OF THE DAY (6:00 – 6:10 PM)

2. Affordable Housing Month Proclamation 2022

AGENDA CHANGES, ADDITIONS AND DELETIONS

PUBLIC COMMENT (6:10 – 6:25 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 (6:25 – 6:30 PM)
Items will be voted on in one motion unless removed from the calendar by three Council Members.

3. Approve Minutes from the April 18, 2022 and City Council Meeting, April 25, 2022 City Council Meeting

4. Adoption of a Resolution Designating Redwood Tree at 1019 Forest Court as a New Heritage Tree #5 and Removing Previously Designated Silver Maple at 1872 Edgewood Drive From the List of Heritage Trees

5. Resolution of the Council of the City of Palo Alto Approving the Execution of Two Assignment Agreements to Assign Palo Alto's Base Resource Percentage Received Under the 2025-2054 Contract With the Western Area Power Administration to the Northern California Power Agency

6. Approval of Construction Contract Number C22182558 with Enterprise Roofing Service, Inc. in an Amount Not-to-Exceed $497,233 to Replace the Existing H Wing Roof at Cubberley Community Center, Capital Improvement Program Project CB-16002; and Authorization of Contract Contingency in an Amount Not-to-Exceed $49,723 for Related, Additional but Unforeseen Work Which May Develop During the Project.

7. Approval of Contract Amendment No. 1 to Contract Number C21179340 with Baker Tilly US, LLP. to Increase the Not-to-Exceed Compensation by $2,126,250 and Extend the Term for Three Additional Years for Continued Audit Services

8. Approval of $900,000 Budget Amendment in the Refuse Fund for Fiscal Year 2022 for Collection, Hauling, and Disposal of Refuse for an Administrative Correction

9. Second Reading of an Ordinance Clarifying Ambiguities in Height Transitions, Adding RMD to the list of Residential Districts and Amending the Setback for the RM-40 Zone District
CITY MANAGER COMMENTS (6:30 – 6:50 PM)

BREAK (6:50 – 7:00 PM)

ACTION ITEMS


10. Review and provide feedback on the proposed permanent parklet standards and program policies; and Adopt an interim ordinance and resolution to continue the pilot parklet program until December 31, 2022 (7:00-8:30 PM) Supplemental Memo Added

11. Approve and Authorize City Manager to Execute Non-Binding Letter of Intent with First Tee Silicon Valley Towards Establishing a Public Private Partnership for Practice Facility Infrastructure Improvements at the Baylands Golf Links and Long-Term Facility Use Access for the First Tee Silicon Valley’s Youth Development Teaching Program (8:30 – 9:45 PM)

12. Report on Palo Alto's Response to Hate Crimes and Hate Incidents, and Discussion of the Policy and Services Committee Recommendation that the City Council Consider the Idea of Developing a Misdemeanor Ordinance to Deter Hateful Speech and Support the Human Relations Commission (HRC) to Bring the FBI and Community Resources to Palo Alto to do Community Education on Hate Crimes (9:45 -10:45 PM)

COUNCIL MEMBER QUESTIONS, COMMENTS, ANNOUNCEMENTS

Members of the public may not speak to the item(s)

ADJOURNMENT

INFORMATION REPORTS

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


OTHER INFORMATION

Standing Committee Meetings
Finance Committee Meeting May 10\textsuperscript{th} and 11\textsuperscript{th}, 2022

Policy & Services Committee Meeting May 10, 2022

Schedule of Meetings

Public Letters to Council

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.

10. Review and provide feedback on the proposed permanent parklet standards and program policies; and Adopt an interim ordinance and resolution to continue the pilot parklet program until December 31, 2022 (7:00-8:30 PM) 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 screen to 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
Report Type: Informational Report    Meeting Date: 5/9/2022

Summary Title: Affordable Housing Month Proclamation

Title: Affordable Housing Month Proclamation 2022

From: City Manager

Lead Department: Planning and Development Services

Attachments:
Attachment 2.a: Attachment A: Affordable Housing Month Proclamation (DOCX)
AFFORDABLE HOUSING MONTH

WHEREAS, affordable housing is a basic human right and yet, each year, thousands of Silicon Valley families and individuals struggle to find an affordable home in this expensive housing market; and

WHEREAS, the ongoing COVID-19 pandemic has continued to exacerbate the existing housing and homelessness crises; and

WHEREAS, many Palo Alto residents who were feeling financial stress during the COVID-19 pandemic continue to struggle with dramatically rising living costs and struggle to pay for their housing; and

WHEREAS, the process of economic recovery will be gradual. Palo Alto must put the constant need for new affordable housing development, preservation of existing affordable homes, and protection of its most vulnerable residents at the center of its recovery planning to promote the stability of its community; and

WHEREAS, the City has implemented meaningful actions to help alleviate this crisis by establishing a safe parking program, funding teacher housing and continued support of fair housing services; and

WHEREAS, many organizations throughout Silicon Valley are dedicated to providing safe, stable, permanent and affordable housing to all members of the community; these organizations along with local agencies and community members have organized Affordable Housing Month.

NOW, THEREFORE, I, Pat Burt, Mayor of the City of Palo Alto on behalf of the entire City Council do hereby proclaim the month of May as Affordable Housing Month in the City of Palo Alto, to call upon our community to support affordable housing solutions and to recognize the successful efforts of the City of Palo Alto and its partners who seek to improve access to affordable housing in Palo Alto.

PRESENTED: May 9, 2022

Pat Burt
Mayor
Meeting Date: 5/9/2022

Title: Approve Minutes from the April 18, 2022 and City Council Meeting, April 25, 2022 City Council Meeting

From: Lesley Milton, City Clerk

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

ATTACHMENTS:

- Attachment3.a: Attachment A: 20220418amCCs (DOCX)
- Attachment3.b: Attachment B: 20220425amCCsm (DOC)
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

Study Session


**NO ACTION TAKEN**

Agenda Changes, Additions and Deletions

Public Comment

Consent Calendar

**MOTION:** Council Member Cormack moved, seconded by Vice Mayor Kou to approve Agenda Item Numbers 2-5.

2. Approve Minutes from the April 04, 2022 City Council Meeting.


4. Approval of Amendment Number 1 to Contract Number C18169357 With Van Scoyoc Associates, Inc. for Federal Legislative Advocacy to Extend the Term for one Additional Year and add $82,800 for a Total Not-to-Exceed Amount of $414,000.
5. Approval of the Appointment of Sandra Blanch as Human Resources Director.

**MOTION PASSED:** 7-0

**City Manager Comments**

**Action Items**

6. Policy and Services Committee, City Auditor and Staff Recommend Approval of the Power Purchase Agreement Audit Report.

**MOTION:** Council Member Cormack moved, seconded by Council Member Stone to approve the Power Purchase Agreement Audit report and corresponding recommendations for improvement.

**MOTION PASSED:** 7-0

7. Approval of Supplement Agreement No. 1 to the Master Funding Agreement Between the City of Palo Alto and the Metropolitan Transportation Commission for $800,000 in Priority Development Area Planning Grant Funds to Prepare a Downtown Housing Plan; Approve Budget Amendments in the General Fund; and to Initiate the Plan Process for a Sub-Area of the Downtown Priority Development Area. Environmental Assessment: Exempt Under CEQA Guidelines Sections 15061(b)(3) and 15262.

**MOTION:** Mayor Burt moved, seconded by Council member Cormack to proceed with acceptance of the grant with the following actions:

1. Approve and authorize the City Manager to execute Supplement Agreement No. 1 to the Master Funding Agreement between the City of Palo Alto and the Metropolitan Transportation Commission (Attachment A) for $800,000 in Priority Development Area Planning Grant funds to prepare a Downtown Housing Plan;

2. Direct Staff to propose City and grant Funding for this project during the FY 23 Budget process

3. Initiate the local planning process for a Downtown Housing Plan; and
DRAFT ACTION MINUTES

4. Direct Staff to return to Council for identification of goals for preparation of the Downtown Housing Plan.

**MOTION PASSED:** 4-3, DuBois, Filseth, Kou no

8. Revenue-Generating Ballot Measures for Fall 2022: Discuss 2nd-Round Polling Results and Feedback from Community and Stakeholder Engagement Activities; Review and Provide Staff Direction on Finance Committee Recommended Refined Parameters for a Business License Tax and an Affirmation of the Gas General Fund Transfer; and Provide Direction to Staff on Next Steps Including Launch of Third Poll, and Council's Non-Binding Intentions for Allocation of Potential Proceeds.

**MOTION:** Motion by Council Member Tanaka seconded by Council Member Dubois to defer this item to the City Council April 25th meeting.

**MOTION PASSED:** 5-2, Cormack, Filesth no

Council Member Questions, Comments and Announcements

**Adjournment:** The meeting was adjourned at 11:46 P.M.

**ATTEST:**

____________________
City Clerk

**APPROVED:**

____________________
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.
The City Council of the City of Palo Alto met on this date in the Council Chambers and by virtual teleconference at 5:15 P.M.

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

Absent:    None

PUBLIC COMMENT

SPECIAL ORDER OF THE DAY

1. Presentation Honoring Palo Alto Day

   **NO ACTION TAKEN**

ACTION ITEMS

2. Interviews for the Parks and Recreation Commission

   **NO ACTION TAKEN**

3. Review and Approval of 2022-2023 Work Plans for the following Boards and Commissions

   - Public Art Commission
   - Utilities Advisory Commission
   - Storm Water Oversight Committee

   **MOTION:** Vice Chair Kou moved, seconded by Council Member DuBois to approve the 2022-2023 Public Art Commission Work Plan.

   **MOTION PASSED:** 7-0
MOTION: Council Member Cormack moved, seconded by Council Member Filseth to approve the 2022 Utilities Advisory Committee Work Plan.

MOTION PASSED: 7-0

MOTION: Mayor Burt moved, seconded by Council Member Cormack to approve the 2022 Stormwater Oversight Committee Work Plan.

MOTION PASSED: 7-0

AA1. Revenue-Generating Ballot Measures for Fall 2022: Discuss 2nd-Round Polling Results and Feedback from Community and Stakeholder Engagement Activities; Review and Provide Staff Direction on Finance Committee Recommended Refined Parameters for a Business License Tax and an Affirmation of the Gas General Fund Transfer; and Provide Direction to Staff on Next Steps Including Launch of Third Poll, and Council’s Non-Binding Intentions for Allocation of Potential Proceeds (Continued from April 18, 2022)

MOTION:

Direct staff to continue work regarding potential ballot measures for voter consideration during the November 2022 election, including execution of the third round of polling, drafting of ballot questions and the full ballot measure text in accordance with the following characteristics:

1. Continue to pursue a ballot measure seeking to affirm the natural gas utility transfer, at the current rate of up to 18% of natural gas utility gross receipts as outlined in Table 2 in the staff report;

2. Continue to pursue a ballot measure seeking to establish a new Business Tax based on square footage with the following characteristics:

   a. Tax is determined based on a business’s square footage in Palo Alto,

   b. Tax rate of $0.10/sq. ft. per month or $0.12/sq. ft. per month,
c. Tax rate to increase by the CPI, capped at 5% per annum with excess CPI carrying over to future years,

d. Two year phase-in provision: reduced rate of 50% in the year of initiation of the tax, and the full rate to be charged in the second year (initiation date to be refined later),

e. No sunset

f. Exemptions for the following:

   i. Grocery stores (requires a given % of sq ft of food sales to qualify as a grocery)
   
   ii. Seasonal businesses operating less than 90 days
   
   iii. First 5,000 square feet


g. Direct staff to evaluate the impacts of allowing an offset for hotels based on remittance of TOT

h. Direct staff to research offsets for businesses based on remittance of sales & use tax where the point of sales has discretion and is designated in Palo Alto.

i. Confirm that the City’s Business Registry program will continue to operate and be required for all businesses except as exempted by the program ordinance.

j. Direct staff to draft a non-binding resolution to inform the public of Council’s intentions regarding the use of Business Tax proceeds,

   i. Explore through polling regarding the use of Business Tax Proceeds: funds would be used for grade separation and rail safety, affordable housing and homeless programs, public safety, and improvements to University and California Avenue business districts

**MOTION PASSED: 6-1** Tanaka no

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**Council Member Comments**

**Adjournment:** The meeting was adjourned at 11:54 P.M.
Materials related to an item on this agenda submitted to the Board after distribution of the agenda packet are available for public inspection at www.CityofPaloAlto.org.
Title: Adoption of a Resolution Designating Redwood Tree at 1019 Forest Court as a New Heritage Tree #5 and Removing Previously Designated Silver Maple at 1872 Edgewood Drive From the List of Heritage Trees

From: City Manager

Lead Department: Public Works

Recommendation
Staff recommends that Council adopt a resolution (Attachment B) designating a Coast Redwood located at 1019 Forest Court as a “heritage tree” at the request of the owner of the property and remove the former heritage tree located at 1872 Edgewood Drive from the heritage tree list.

Background
In 1996, Council enacted the Tree Preservation Ordinance, Chapter 8.10 of the Palo Alto Municipal Code, to preserve and maintain specified native oaks, redwoods, and heritage trees on private property, and to protect them from disfigurement or removal, except in certain circumstances.

Section 8.10.090 of the ordinance allows persons to nominate a tree on their property for heritage tree status. After Council approval of such designation, the tree is added to the heritage tree listing, which includes specific location, overall size, and canopy spread. The list is maintained by the Department of Public Works and available to the public on the City’s Urban Forestry website. Once designated, a heritage tree is protected by the provisions of the Tree Preservation and Management Regulations, unless removed from the heritage tree list by subsequent Council action at the request of the property owner.

The property owner at 1019 Forest Court, Ms. Enid Pearson, has applied to designate a Coast Redwood as a heritage tree (Attachment A).

Heritage tree #5, a silver maple located at 1872 Edgewood Court had reached the end of its life span and was in decline and becoming hazardous. The property owners, the Starner Family, applied for and received a protected tree removal permit in December 2021 and have since removed the tree. It now needs to be officially removed from the heritage tree list.
Discussion
Staff has reviewed the application for the coast redwood at 1019 Forest Court and the benefits, restrictions, and obligations for a tree on private property being designated as a heritage tree by Council. The owner, Ms. Pearson, is committed to maintaining the tree according to the standards of practice, care, and stewardship outlined in the Palo Alto Tree Technical Manual; disclosing this obligation to future owners of the property; and allowing the address and tree location to appear on City inventory lists, maps, and in online heritage tree information.

Staff has evaluated the tree and supports the heritage tree designation. The tree is of sound health and structure, is a significant contributor to the landscape scheme of the property, and is visible from most locations in the neighborhood and, with reasonable care, will live for many years to come. To be designated as a heritage tree, the tree must meet one or more of the PAMC Section 8.10.090 criteria listed below:

1. It is an outstanding specimen of a desirable species.
2. It is one of the largest and oldest in Palo Alto.
3. It possesses distinctive form, size, age, and location.

The Coast Redwood meets the standard for heritage tree designation and satisfies criteria 1 & 2 as set forth above. Written request, consent, and photographs from the owner have been received, along with a written analysis of the tree's specific location, size, dimensions, quality, economic value, and the cultural and familial significance included in the arborist report prepared by consulting arborist David Dockter of Arbor Advisor, (Attachment A). The tree is a desirable species, healthy and sizable, is of cultural and familial significance and is one of the best examples of a Coast Redwood in all of Palo Alto. Roughly 48 years old, the tree has been well maintained and has a favorable prognosis for the future and contributes approximately $40,600 to the property value.

Timeline, Resource Impact, and Policy Implications
There is no staff or funding resources required for this action, nor any policy changes required. The tree at 1019 Forest Court will be designated as a heritage tree once the resolution is adopted.

Stakeholder Engagement
No formal engagement was undertaken; however, the property owner did include a letter of support for designating this tree as a heritage tree from a neighboring property owner.

Environmental Review
Adoption of this resolution does not require environmental review.

Attachments:
- Attachment4.a: Attachment A: 1019 Forest Ct Heritage Tree Documents
- Attachment4.b: Attachment B: Resolution Designating a Heritage Tree at 1019 Forest Court and removing a Heritage Tree at 1872 Edgewood Drive
Enid Pearson, 1019 Forest Court, Palo Alto, CA 94301 January 12, 2022

Palo Alto City Council
Palo Alto, CA 94301

Re: Heritage Tree Designation by City Council

Dear Mayor Burt and Members of the Palo Alto City Council:

This is my application for a Heritage Tree Designation by the City Council for a beautiful coast redwood tree that is on my property at 1019 Forest Court. It would be an extraordinary addition to Palo Alto’s Urban Forestry program for Heritage Trees.

I have included a report from one of Palo Alto’s finest arborists, David Dockter, and several pictures of the tree, including a painting of the tree by my granddaughter, Bryn Barton.

When I moved into my Forest Court home in 1977, the yard was barren, except for two badly trimmed and topped eucalyptus trees and one desperate oak in the middle of the yard. This was also the year we had one of our unusually rainy storms and during the night the poor oak just fell over taking out part of the fence, leaving my house intact.

After the cleanup, I consulted with my friend Mary Gordon, Landscape Architect, and she recommended planting the African Linden and the Coast Redwood. I have kept the African Linden (which was from a pot at my former house) well in check and the Redwood was allowed to grow at will, with regular watering. Today this wonderful tree is over 65 inches in diameter and 163 feet in height. I think it is magnificent. It belongs on Palo Alto’s list of significant trees – El Palo Alto’s neighbor!

One of Palo Alto’s most beloved assets is its trees. It is quite wonderful to drive (or walk) down our streets and marvel at the great variety and number of trees. It was always my aim when I was on the council that any development that proposed taking out a tree was obligated to plant a replacement. It was most painful when developments replaced trees with what I called “buggy-whip saplings” which usually took another 20 years to grow to 20 feet tall, if they even survived that long. I compliment you on your recently revised tree ordinance; you recognized Palo Alto’s great tree value.

If you read David Dockter’s assessment of my proposed designated heritage tree I think you will appreciate my desire to protect this tree for future Palo Altans. I request that this Council add this incredible tree to its list of Heritage Trees. Thank you.

Enid Pearson, former Councilmember, 1965-75.

Enid Pearson, signature
January 5, 2022

Ms. Enid Pearson  
1019 Forest Court  
Palo Alto, CA 94301

RE: Heritage Tree Designation—Arborist Report of a Coast Redwood

Dear Ms. Pearson:

Thank you for the opportunity to assist with your request for an arborist report for a Coast redwood tree on your property. I understand you are proposing the tree be considered for a City of Palo Alto Urban Forestry program for Heritage Trees, a formal Resolution by City Council for designated trees that meet certain qualifications1. This report is prepared for the purpose of providing both you and City Council with an overview of the tree's size, health, history, and value to the community to aid their consideration of the tree to be designated. The City of Palo Alto Heritage Tree designation would be in addition to its existing status of a protected tree pursuant to the Tree Preservation and Management Regulations, Palo Alto Municipal Code, Chapter 8.10.

I am a qualified arborist certified by the International Society of Arboriculture2. Because of the considerations and findings documented below, I believe that the Heritage Tree candidate Coast redwood is unique and of importance to the community because it is a desirable species, healthy, sizable, and is perhaps one of the best examples of a Coast redwood in the city.

LOCATION OF THE TREE
The tree is located on your property at 1019 Forest Court, Palo Alto, California. It is well-placed in the northwest rear yard corner within the side and rear setback area, safely distant from primary structures in all directions. A typical good-neighbor wood fence to the north is approximately two feet clear from the tree base and a wrought iron view fence is located near the base on the west side. The dominant tree is standing compatible among several understory shrubs and trees sharing its environs, including a rare African Linden (*Sparrmannia Africana*) and Argyle Apple (*Eucalyptus cineria)*.

SPECIES, HABITAT, SIZE AND AGE OF THE TREE
The subject tree, a *Sequoia sempervirens* ‘Los Altos’, Coast redwood is native to California and indigenous to the foothills of the Santa Cruz Mountains. The variety, ‘Los Altos’, is propagated from an original parent tree of the Los Altos foothill region adjacent to Palo Alto. This is considered a beneficial asset and may well ensure this individual tree’s prognosis to be more adaptable and resilient to climate or other stresses than other varieties sold on the market and planted throughout California. The Coast redwood tree is 65-inches in diameter, 163-feet in height and has a lower crown dimension of 54-feet x 42-feet. I understand that you planted the young tree (3-yr. Typ. age) in 1977, putting the current age of the redwood tree at 48 years—or nearly half a century old.

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2 International Society of Arboriculture. The International Society of Arboriculture manages TreesAreGood.org, an educational website that provides the public with quality tree care information. ISA credentialing of a person demonstrates a proper knowledge and skills, as well as a high level of dedication to the profession and our community. Go to: [https://www.isa-arbor.com/](https://www.isa-arbor.com/)
HEALTH, CONDITION AND MAINTENANCE OF THE TREE
The Coast redwood is in relatively good health and condition. Its root growth has been opportunistic in the regional alkaline soil (proximity to San Francisquito Creek alluvial sediment) and water table, as well as incidental landscaping surface water from yards.

My general observations indicate that the tree is:

- a handsome upright tree visible from distant neighborhood streets
- exceptional in structure, dark green foliage color and aesthetic beauty
- supporting fair annual shoot growth (an average of six inches over the last 5 years)
- well-rooted with little chance of toppling over
- adapted nicely to the regional soil characteristics

The exceptional tree structure and superior crown is evident from many years of professional maintenance practices from tree workers under your direction. Absent of many common deficiencies, the single upright stem has no side spar trunks or bifurcated top, only a minor basal flare, and branch lengths on the entire tree have been proportionally tipped for safety. This end-weight pruning of branch ends yields a minimal risk of branch failure and a strong structure able to withstand strong prevailing winds. Coast redwoods are resilient—not prone to many insects, disease, or fire. The tree needs no special attention other than pruning.

CULTURAL AND FAMILY LEGACY SIGNIFICANCE
You have reported to me that the Coast redwood tree has been lovingly recreated by your granddaughter, Ms. Bryn Barton, with a wonderful patio fresco mural painting executed on the outside wall of your home. The backyard wall painting, protected in an alcove from the elements by the roof eave overhang depicts the special Coast redwood tree among other natural elements envisioned by the artist.

From the vantage of the family patio, viewing the painted wall fresco with its playfully designed tree theme, the onlooker can simply look up over the eves to see the actual living redwood tree towering over the roofline. A fresco painted on real property reinforces a relative permanence of the tree to the property and neighborhood. City Council may wish to consider this importance of the tree + fresco family legacy element when determining the Heritage Tree designation.

In addition to the family legacy significance of the redwood, the tree species is in good company associated with the El Palo Alto Redwood3, a local cultural resource and California State Historical Landmark #2.

APPRAISAL AND TREE BENEFITS
National, state, municipal and real estate recognize that plants have value beyond their aesthetic contribution to a landscape, and that their contribution can be assessed. The following horticultural appraisal, using the current Guide for Plant Appraisal authored by the Council of Tree and Landscape Appraisers and published by the International Society of Arboriculture, includes consideration of the tree species, size, condition, and location/tree placement factors that influence the value of a tree. The appraised value of the Coast redwood Heritage Tree candidate is estimated to be $40,6004.

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The Heritage Tree candidate redwood provides monetary and environmental benefits to the property owner, neighborhood, and city. Community-wide tree benefits can be understood and forecasted by using the National Tree Benefits Calculator using i-Tree. For approximate reference a 45-inch trunk size Coast redwood may provide the following annual benefits to the local community\(^5\) through cost-avoidance or accrued value:

- A 45-inch Coast redwood will raise the property value by $405 this year and will add 387 sq. ft. of leaf surface area, increasing in subsequent years.
- A 45-inch Coast redwood will conserve 525 Kilowatt hours of electricity for cooling and reduce consumption of oil or natural gas by 13 therm(s).
- A 45-inch Coast redwood will intercept 5931 gallons of stormwater runoff this year, acting as a mini-reservoir controlling runoff at the source.

**CONCLUSION**

Supported by the above considerations and documented findings, I find that the Heritage Tree candidate Coast redwood is unique and of importance to the community and family heritage because it is a desirable species, healthy, sizable, and is perhaps one of the best examples of a Coast redwood in the city. I support the City Council designation of the Coast redwood to be added to the Heritage Tree List on behalf of the property owner and the current and future residents of the City of Palo Alto.

Respectfully,

David Dockter,
the Arbor Advisor
Certified Arborist (WE-0351)
ISA Tree Risk Assessor Qualified
American Planning Association

**EXHIBITS:**

- A: Photographs
- B: NTB Calculator Sheet on Property values
- C: NTB Calculator Sheet on Energy
- D: NTB Calculator Sheet on Stormwater
- E: Disclosure & Limiting Report Conditions

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\(^5\) The Center for Urban Forest Research. The Tree Benefit Calculator is intended to be simple and accessible. As such, this tool should be considered a starting point for understanding trees’ value in the community rather than a scientific accounting of precise values. For more detailed information on urban and community forest assessments, visit the i-Tree website. [https://www.fs.fed.us/psw/topics/urban_forestry/](https://www.fs.fed.us/psw/topics/urban_forestry/).
Heritage Tree candidate Coast Redwood
featured prominently in center of Google Map at 1019 Forest Court, Palo Alto
EXHIBIT A ~ Photographs

Coast redwood ground level photo showing a solid single stem, well anchored basal flare, and professionally thinned branching
View from Forest Court shows superior tree proportions of the 163-foot-tall Coast redwood (comprising height, crown density, conical taper and well-pruned branch lengths by professional trimers—resulting in a safe, wind resilient tree over long term.
The Coast redwood is well-placed on the property in the side and rear setback area, and clear from buildings and powerline conflicts.

Towering above the Pearson home, the Coast redwood has grown well with other rare landscape trees and shrubs.
The Bryn Barton fresco is applied to the outer wall above the pottery shelf at the Enid Pearson home.

The family Coast redwood is depicted to the right of the natural mountain canyon stream path image envisioned by the artist.
Landscape design has created a shady grotto under the Coast redwood.

~~ End of Photos ~~
Located in front of a single family home, this 45 inch Coast redwood will raise the property value by $405 this year.

Trees in front of single family homes have a greater property value benefit than those in front of multi-family homes, parks or commercial properties. Real estate agents have long known that trees can increase the "curb appeal" of properties thereby increasing sale prices. Research has verified this by showing that home buyers are willing to pay more for properties with ample versus few or no trees.

This model uses a tree's Leaf Surface Area (LSA) to determine increases in property values. That's a researcher's way of saying that a home with more trees (and more LSA) tends to have a higher value than one with fewer trees (and lower LSA). The values shown are annual and accumulate incrementally over time because each tree typically adds more leaf surface area each growing season. The amount of that increase depends on the type of tree – some add more, some less.

The 45 inch Coast redwood you selected will add 387 square feet of LSA this year. In subsequent years it will add more, and the property value will increase accordingly.

For more information visit: The Center for Urban Forest Research
Your 45 inch Coast redwood will conserve 525 Kilowatt hours of electricity for cooling and reduce consumption of oil or natural gas by 13 therm(s).

Trees modify climate and conserve building energy use in three principal ways (see figure at left):

- Shading reduces the amount of heat absorbed and stored by buildings.
- Evapotranspiration converts liquid water to water vapor and cools the air by using solar energy that would otherwise result in heating of the air.
- Tree canopies slow down winds thereby reducing the amount of heat lost from a home, especially where conductivity is high (e.g., glass windows).

Strategically placed trees can increase home energy efficiency. In summer, trees shading east and west walls keep buildings cooler. In winter, allowing the sun to strike the southern side of a building can warm interior spaces. If southern walls are shaded by dense evergreen trees there may be a resultant increase in winter heating costs.

For more information visit: The Center for Urban Forest Research
National Tree Benefit Calculator

Benefits of your tree

Your 45 inch Coast redwood will intercept **5,931 gallons** of stormwater runoff this year.

Urban stormwater runoff (or "non-point source pollution") washes chemicals (oil, gasoline, salts, etc.) and litter from surfaces such as roadways and parking lots into streams, wetlands, rivers and oceans. The more impervious the surface (e.g., concrete, asphalt, rooftops), the more quickly pollutants are washed into our community waterways. Drinking water, aquatic life and the health of our entire ecosystem can be adversely affected by this process.

Trees act as mini-reservoirs, controlling runoff at the source. Trees reduce runoff by:

- Intercepting and holding rain on leaves, branches and bark
- Increasing infiltration and storage of rainwater through the tree's root system
- Reducing soil erosion by slowing rainfall before it strikes the soil

For more information visit: The Center for Urban Forest Research

The National Tree Benefit Calculator was conceived and developed by Casey Trees and Davey Tree Expert Co.
EXHIBIT D

DISCLOSURE AND LIMITING REPORT CONDITIONS

The following terms and conditions apply to all oral and written reports and correspondence pertaining to the consultations, inspections and activities of David Dockter, consultant.

1. All property lines and ownership of property, trees and landscape plants and fixtures are assumed to be accurate and reliable as presented and described to the consultant, either verbally, graphically or in writing. David Dockter, Consultant, assumes no responsibility for verification of ownership, locations of property lines, or for results of any actions or recommendations based on inaccurate information.

2. It is assumed that any property referred to in any report or in conjunction with any services performed by David Dockter, is not in violation of any applicable codes, ordinances, statutes, or other governmental regulations, and that any titles and ownership to any property are assumed to be good and marketable. Any existing liens and encumbrances are disregarded.

3. All reports and other correspondence are confidential, and are the property of David Dockter, Consultant, and its named clients and their assigns or agents. Possession of this report or a copy thereof does not imply any right of publication or use for any purpose, without the expressed permission of the Consultant and the Client to whom the report was issued. Loss, removal, or alterations of any part of the report invalidates the entire report, appraisal evaluation or opinion.

4. The scope of any report or other correspondence is limited to the trees and conditions specifically mentioned in those reports and correspondence. David Dockter, as the consultant assumes no liability for the failure of trees or parts of trees, either inspected or otherwise. The consultant assumes no responsibility to report on the condition of any tree or landscape feature not specifically requested by the named client.

5. All inspections are limited to visual ground examination of accessible parts, without dissection, excavation, probing, boring or other invasive procedures, unless otherwise noted in the report. David Dockter does not take responsibility for any defects which could have only been discovered by climbing. A full root collar inspection, consisting of excavating the soil around the tree to uncover root collar & major buttress roots was not performed unless otherwise stated.

6. Any photographs, diagrams, graphs, sketches, or other graphical material included in any report, being intended solely as visual aids, are not necessarily to scale and should not be construed as engineering reports or surveys, unless otherwise noted in the report. Any reproduction of graphic material or the work product of any other persons is intended solely for the purpose of clarification and ease in reference. Inclusion of said information does not constitute a
representation by consultant David Dockter, as to the sufficiency or accuracy of that information.

7. No assurance can be offered that if all Consultant’s recommendations and precautionary measures are accepted and followed that, the desired results may be achieved. It remains the responsibility of the Client to determine applicability to his/her case. No warrantee or guarantee is made, expressed or implied that the problems or deficiencies of the plants or the property will not occur in the future, from any cause. The consultant shall not be responsible for damages caused by any tree defects and assumes no responsibility for the correction of defects or tree related problems.

8. In terms of tree risk, trees can be managed, but they cannot be controlled. Thus, the only way to eliminate all risk associated with trees is to eliminate all trees. It is then acknowledged that to live near trees is to accept some degree of risk.

9. Any report and the values, observations, and recommendations expressed herein represent the professional opinions of the consultant, and the fee for services is in no manner contingent upon the objective reporting of a specified value or upon any finding to be reported.

10. Neither all nor any part of the contents of this report, nor copy thereof, shall be conveyed by anyone, including the client, to the public through advertising, public relations, news, sales or other media, without the prior expressed written or verbal consent of the Arbor Advisor - particularly as to value, conclusions, identity of the consultant/appraiser, or any reference to any professional society or institute or to any initialed designation conferred upon the consultant as stated in his qualification.

11. The consultant shall not be required to provide further documentation, give testimony, be deposed, or to attend court by reason of this appraisal/report unless subsequent contractual arrangements are made, including payment of additional fees for such services as described by the consultant or in the fee schedule or contract.

12. Any dispute or claim arising out of or relating to this agreement, or the breach thereof, shall be settled through mediation and by a mediation service acceptable to both parties. The demand for mediation shall not be made after such claim or dispute would be barred by any governing law. If mediation does not resolve the issue, the parties agree to proceed through binding arbitration in accordance with the then prevailing rules of the American Arbitration Association. Consultant shall not pay punitive damages or fees more than his billed charges.

13. Neither all nor any part of the contents of this report, nor copy thereof, shall be conveyed by anyone, including the Client or its agents, to the public through advertising, public relations,
news, sales or other media, without the prior expressed written or verbal consent of David Dockter--particularly as to value, conclusions, identity of the consultant/appraiser, or any reference to any professional society or institute or to any initialed designation conferred as stated in my qualifications.

Thank you for providing the opportunity to assist you with your project and decisions. the Arbor Advisor.

~~ End of Report ~~
## Application Checklist for Heritage Tree Designation by City Council

<table>
<thead>
<tr>
<th>STEP #</th>
<th>CHECKLIST OF ITEMS TO INCLUDE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1. <strong>Applicant Consent Letter</strong>&lt;br&gt;Addressed to:&lt;br&gt;City Council&lt;br&gt;City of Palo Alto,&lt;br&gt;P.O. Box 10250&lt;br&gt;Palo Alto, CA 94303</td>
<td>- Property owners’ statement of intent requesting that the subject tree(s) be considered as a candidate for Heritage Tree status as outlined in CPA Municipal Code 8.10.090 and the reason you feel it qualifies for such.&lt;br&gt;- State assurance to the City of the applicant’s indefinite commitment to maintain the Heritage Tree specimen according to the standard practice of care and stewardship, and to disclose the same to any future owners of the property.&lt;br&gt;- Grant consent to include the address and tree location on an inventory list and map that may be utilized by persons interested in viewing the tree.</td>
</tr>
<tr>
<td>2.1 <strong>Photographic Documentation</strong></td>
<td>- Photographs of the tree need not be professional, but must clearly show the tree form and its orientation on the property. They should be suitable for reproduction and viewing by the City Council.&lt;br&gt;- Creative tips such as long distance, interesting angles, full sun vs. silhouette and a view as seen from the street should be explored.</td>
</tr>
<tr>
<td>3.1 <strong>Arborist Letter Report</strong>&lt;br&gt;An ISA Certified Arborist’s report must include the following for each tree:</td>
<td>- Arborist Name, Certification # and company letterhead&lt;br&gt;- Species (a common and scientific name)&lt;br&gt;- Size (diameter, height and crown spread)&lt;br&gt;- Condition (foliage, vigor, structural integrity, etc.)&lt;br&gt;- Life expectancy and brief narrative of the tree&lt;br&gt;- Location diagram</td>
</tr>
<tr>
<td>4.1 <strong>Value Appraisal</strong></td>
<td>- To determine the tree’s contribution to the overall real estate value of the property, a tree appraisal that is prepared by an ISA Certified Arborist shall be included in the submittal. As long as the Heritage Tree remains in good standing on the City Council listing, the property owner will realize benefit of the tree’s documented value for use in real estate transactions, IRS property loss claims (due to sudden event/disaster) or other bonafide uses.&lt;br&gt;- The appraisal will use the most current edition of (1) the ‘Guide for Pant Appraisal’, published by the Council of Tree and Landscape Appraisers and, (2) the most recent ‘Form for Northern California’ established by the International Society of Arboriculture. Form for Northern California’ established by the International Society of Arboriculture.</td>
</tr>
<tr>
<td>5.1 <strong>City Review.</strong></td>
<td>- Upon receipt of the above information, an evaluation review will be performed by the Department of Public Works and Planning and Community Environment to determine candidate viability. If no other information is needed and the candidate tree is deemed suitable, as outlined in PAMC 8.10.090, the application will be recommended for City Council review and a City Managers Report (CMR) will be prepared.</td>
</tr>
<tr>
<td>6.1 <strong>City Council Action</strong></td>
<td>- The City reserves the privilege of combining a number of Heritage Tree applications before being placed on the City Council agenda for consideration. Notice of this Agenda item will be mailed to the property owner.&lt;br&gt;- The property owner will receive written response of the Council action to the determination of acceptance or denial. The property owner’s Heritage Trees will be entitled to all benefits realized from other Protected Trees, as outlined in PAMC 8.10. Records of the tree will be maintained by the City indefinitely and available for review, and may be updated by the property owner at any time.</td>
</tr>
</tbody>
</table>
Hi Enid,
I am so happy you are working on declaring your Redwood tree as a heritage tree. The attached photo shows a view from my back deck in late summer. This landscape is a great source of joy and renewal for me and my guests. I'm happy to provide more photos if you could use them.

-Joyce
Resolution No. ___  
Resolution of the Council of the City of Palo Alto Designating a Heritage Tree at 1019 Forest Court and removing a Heritage Tree at 1872 Edgewood Drive

RECITALS

A. Pursuant to Palo Alto Municipal Code section 8.10.090, upon nomination by any person and with the written consent of the property owner(s), the City Council may designate a tree as a heritage tree.

B. A tree may be designated as a heritage tree upon a finding that it is unique and of importance to the community because it is an outstanding specimen of a desirable species or it is one of the largest and oldest trees in Palo Alto or it possesses distinctive form, size, age, location, and/or historic significance.

C. Enid Pearson the owner of 1019 Forest Court has requested the coast redwood on her property be designated as a heritage tree.

D. The City Council finds that the coast redwood at 1019 Forest Court is unique and of importance to the community because it is a desirable species, healthy and sizable, of cultural and familial significance, and is one of the best examples of a Coast Redwood in Palo Alto.

E. Pursuant to Palo Alto Municipal Code section 8.10.090, upon written request of the property owner(s) or by City Council action, the City Council may remove a tree from the list of heritage trees.

F. Suanne Starner the owner of 1872 Edgewood lawfully removed under permit the silver maple designated as Heritage Tree #5.

G. The City Council finds that the silver maple at 1872 Edgewood Drive known as Heritage Tree #5 is no more.

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

SECTION 1. The coast redwood tree located at 1019 Forest Court is designated as a heritage tree.

SECTION 2. The silver maple tree located at 1872 Edgewood Drive is no longer designated as a heritage tree.
SECTION 3. The Council finds that the adoption of this resolution does not meet the definition of a project under Public Resources Code Section 21065, thus, no environmental assessment under the California Environmental Quality Act is required.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

____________________________   ____________________________
City Clerk       Mayor

APPROVED AS TO FORM:

__________________________________
Assistant City Attorney

____________________________   ____________________________
____________________________   ____________________________
____________________________   ____________________________
City Manager       Director of Public Works
City of Palo Alto  
City Council Staff Report  

Meeting Date: 5/9/2022  
Report Type: Consent Calendar  

Title: Resolution of the Council of the City of Palo Alto Approving the Execution of Two Assignment Agreements to Assign Palo Alto's Base Resource Percentage Received Under the 2025-2054 Contract With the Western Area Power Administration to the Northern California Power Agency  

From: City Manager  

Lead Department: Utilities  

RECOMMENDATION  
Staff recommends that Council approve the adoption of the attached Resolution (Linked Document) which authorizes the City Manager to execute two Assignment agreements: 1) the 2025 Assignment Administration Agreement (“2025 AAA”) between the City of Palo Alto (City) and Northern California Power Agency (NCPA) (Linked Document), and 2) the Request for Assignment of City of Palo Alto’s Base Resource Percentage to Northern California Power Agency, Assignment 21-SNR-02644 (“2025 WAPA BRAA”), between City, NCPA, and the Western Area Power Administration (WAPA) (Linked Document).  

EXECUTIVE SUMMARY  
The City currently assigns the entire share of its WAPA Central Valley Project (CVP) Base Resource power percentage to NCPA for optimization of City’s 2005 – 2024 WAPA Base Resource contract. For the 2025 – 2054 extension of the WAPA Base Resource contract approved in February 2021 (ID #11679 RESO #9946), staff recommends continuing the current arrangement by assigning the entire 2025 City Base Resource share (12.06299%) to NCPA for optimization of dispatch of the resource. If the Resolution in Attachment A is approved per staff recommendation, then the City will execute the 2025 AAA, which outlines how NCPA will receive and manage the assignment of the City’s 2025 Base Resource share, followed by the WAPA request for assignment to NCPA (the 2025 WAPA BRAA). NCPA has already signed the 2025 AAA, and there are almost no differences between the 2005 and 2025 version of either contract.  

BACKGROUND  
The WAPA CVP Base Resource generation has been a valuable carbon-free electricity resource for Palo Alto, and Council approved execution of the 2025-2054 contract extension in February.
2021\(^1\) which was then executed under RESO #9946.\(^2\) The current 2005 AAA and 2005 WAPA BR AAA have allowed NCPA to optimize the City’s share of the Base Resource since 2005 and added substantial value.

**DISCUSSION**

By assigning its share to NCPA, the City is able to gain greater monetary and carbon value from the WAPA Base Resource. This is accomplished by pooling the City’s Base Resource share with that of other NCPA member utilities and optimizing the Base Resource around the combined utilities’ loads, needs, and market prices, rather than only optimizing to the City’s load. In order to continue NCPA’s administration of the Base Resource contract that the City has benefited from since 2005, staff recommends Council approve the adoption of Resolution in Attachment A to authorize the City Manager to execute the 2025 AAA and 2025 WAPA BRAA. The formal title of Attachment C (2025 WAPA BRAA) is the “Request for Assignment of the City of Palo Alto’s Base Resource Percentage to Northern California Power Agency: Assignment 21-SNR-02644” which is a letter of agreement between the City, WAPA and NCPA, under which the City directs WAPA to assign its 2025 Base Resource Percentage to NCPA, and NCPA formally accepts the City’s assigned 2025 Base Resource Percentage.

The Council could choose not to assign the City’s share of 2025-2054 contract to NCPA for optimization. This would lead to near-term process complexities on voting authority between the City and NCPA, potentially higher costs due to delays in decisions on capital expenditures for CVP facilities which will incur expenses during the 2025 WAPA contract, as well as revenue losses after 2025 as the City will forego the benefits of optimized pooling of Base Resource Percentages and loads with other NCPA members. WAPA has asked that all customers who are going to assign their 2025 Base Resource share do so by mid calendar year 2022 for efficient capital planning and clear legal authority in meetings deciding capital expenditure for expenditures which span both the current assignment as well as the post-2025 assignment.

Either the City or NCPA can terminate the 2025 WAPA BRAA, effective the first day of the month 90 days after a written termination request to WAPA, which will cause the Base Resource Percentage to revert back to City. The 2025 AAA with NCPA automatically terminates if the City’s 2025 WAPA BRAA terminates; however, City would be responsible for any termination-related costs incurred by NCPA under the 2025 AAA.

There are no material differences between the 2005 AAA and the 2025 AAA.

There are also no material differences between the 2005 WAPA BRAA and the 2025 WAPA

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BRAA.

RESOURCE IMPACT
The execution of the AAA and will incur similar cost to what we are paying NCPA now for the management and optimization of the 2005 WAPA BR contract. There is no cost for the 2025 WAPA Assignment Agreement.

Costs and benefits of the optimization will be handled pursuant to the respective cost-sharing agreements NCPA, the last formula being updated in 2017. Billing for services will continue as it has, with invoicing being handled most often via the NCPA All Resources Bill.

If the City executes both the 2025 AAA and the 2025 WAPA Assignment Agreement, the City can expect to maintain the value from optimization that the City has benefitted from since 2005. If the City does not execute both agreements, the value from optimization will not be realized and passed on to City of Palo Alto Utilities customers.

POLICY IMPLICATIONS
Approval of this resolution is consistent with the Utilities Strategic Plan, the Utilities Electric Integrated Resources Plan, Sustainability Implementation Plans, and the City’s Sustainability and Climate Action Plan (S/CAP).

ENVIRONMENTAL REVIEW
Staff’s recommendation for approval of this resolution and execution of the assignment agreements authorized by this resolution does not require California Environmental Quality Act review, because it does not meet the definition of a project under Public Resources Code Section 21065 and CEQA Guidelines Section 15378(b)(5), as an administrative governmental activity which will not cause a direct or indirect physical change in the environment.

Attachments:
- Attachment5.a: ATTACHMENT A: Resolution
- Attachment5.b: ATTACHMENT B: 2025 Assignment Administration Agreement
- Attachment5.c: ATTACHMENT C: Assignment 21-SNR-02644
Resolution of the Council of the City of Palo Alto Approving the Execution of Two Assignment Agreements: 1) the “Assignment Administration Agreement For Western Area Power Administration Base Resource Percentage Between Northern California Power Agency and Assignor: City of Palo Alto”, and 2) the “Request For Assignment of City of Palo Alto’s Base Resource Percentage To Northern California Power Agency: Assignment 21-SNR-02644” Between the City of Palo Alto, Western Area Power Administration, and Northern California Power Agency

RECITALS

A. The City of Palo Alto ("City"), a chartered municipal corporation operating municipal utilities including an electric utility, is a “Preference Customer” of the Western Area Power Administration ("WAPA") of the United States Department of Energy; and

B. The City has a 30-year power supply contract (Base Resource Contract 21-SNR-02365) with WAPA for an 12.06299% share of WAPA’s “Base Resource”, in effect from January 1, 2025 through December 2054; and

C. The City is a member of the Northern California Power Agency ("NCPA"), a public agency established pursuant to the California Joint Exercise of Powers Act, which is authorized to acquire, construct, finance, and operate buildings, works, facilities and improvements for the generation and transmission of electric capacity and energy for resale; and

D. The City, and other NCPA entities that are WAPA customers, have operated a resource and load sharing pool since 2005 administered by NCPA, with WAPA’s consent; and

E. NCPA intends that the pooling of resources and loads among participating agencies, including City, will continue to save money for those agencies; and

F. The City intends to execute an assignment of its WAPA “Base Resource Percentage” to NCPA to allow NCPA to receive the City’s Base Resource Percentage for pooling and optimization during the 30-year Base Resource power supply contract extension from 2025 to 2054; and

G. The City and other participating agency members assigning Base Resource Percentage to NCPA drafted an “Assignment Administration Agreement” to determine and allocate costs and benefits of the WAPA resource pooling in a fair method to participant assignors; and

H. After executing the Assignment Administration Agreement with NCPA, the City intends to execute the “Request for Assignment of City of Palo Alto’s Base Resource Percentage to NCPA: Assignment 21-SNR-02644”, which is a letter of agreement between the City of Palo Alto, WAPA, and NCPA, pursuant to which the City directs WAPA to assign its 2025 Base
*Not Yet Approved*

Resource Percentage to NCPA, and NCPA formally accepts the assigned 2025 Base Resource Percentage; and

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

SECTION 1. The Council hereby authorizes the City Manager on behalf of the City to execute two assignment agreements in which City assigns its WAPA Base Resource Percentage under Base Resource Contract 21-SNR-02365 to NCPA: 1) the “Assignment Administration Agreement For Western Area Power Administration Base Resource Percentage Between Northern California Power Agency and Assignor: City of Palo Alto” and 2) the “Request for Assignment of City of Palo Alto’s Base Resource Percentage to Northern California Power Agency: Assignment 21-SNR-02644”.

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SECTION 2. The Council finds that the adoption of this resolution regarding execution of this contract extension does not require California Environmental Quality Act review, because it does not meet the definition of a project under Public Resources Code Section 21065 and CEQA Guidelines Section 15378(b)(5), as an administrative governmental activity which will not cause a direct or indirect physical change in the environment. WAPA’s 2025 Power Marketing Plan authorizing the contract has a Categorical Exclusion from National Environmental Policy Act (NEPA) review since WAPA is reallocating its existing resources and is not planning to increase its generation or transmission.

INTRODUCED AND PASSED:

AYES:  
NOES:  
ABSENT:  
ABSTENTIONS:  
ATTEST:

___________________________    ___________________________
City Clerk       Mayor

APPROVED AS TO FORM:  
APPROVED:

___________________________    ___________________________
City Attorney or Designee    City Manager

___________________________
Director of Utilities
ASSIGNMENT ADMINISTRATION AGREEMENT

FOR

WESTERN AREA POWER ADMINISTRATION BASE RESOURCE PERCENTAGE

BETWEEN

NORTHERN CALIFORNIA POWER AGENCY

AND

ASSIGNOR: CITY OF PALO ALTO
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APPENDIX A ................................................................................................................................ 1
This ASSIGNMENT ADMINISTRATION AGREEMENT ("Agreement") is dated as of ______________, 20__ by and among the Northern California Power Agency, a joint powers agency of the State of California ("NCPA"), and ________________________ ("Assignor"). NCPA and Assignor are referred to herein individually as a “Party” and collectively as the “Parties”.

RECITALS

A. NCPA has heretofore been duly established as a public agency pursuant to the Joint Exercise of Powers Act of the Government Code of the State of California and, among other things, is authorized to acquire, construct, finance, and operate buildings, works, facilities and improvements for the generation and transmission of electric capacity and energy for resale.

B. Assignor is a signatory to the Joint Powers Agreement which created NCPA and therefore is a Member.

C. As a Member, Assignor entered into Contract ______________ (“Assignment Contract”), dated ______________, 20__ whereby Assignor assigned its Base Resource Percentage under this Agreement to NCPA in order for NCPA to create a power resource portfolio for the mutual benefit of participating Members (collectively referred to as “Assignors”) beginning January 1, 2025.
D. NCPA has agreed to accept assignment of Assignor’s Base Resource Percentage, and will administer the Assignment Contract for the benefit of Assignor according to the terms and conditions of this Agreement.

E. It is intended Assignor will receive an economic benefit from assigning its Base Resource Percentage to NCPA, with such benefit being equal to or greater than the benefit Assignor would have derived had Assignor’s Base Resource Percentage been scheduled solely to service its own use.

F. NCPA anticipates taking assignment of additional Base Resource Percentages from other Assignors to likewise supply Joint Assignment Administration Services, and will strive to create benefits equal to or greater than those benefits individual Assignors would have derived had their Base Resource Percentage been scheduled solely for their own uses.

G. NCPA Members and other qualified entities assigning their respective Base Resource Percentages to NCPA expect to gain economies of scale and avoid certain costs associated with Base Resource Percentage delivery that would otherwise accrue if each Assignor’s Base Resource Percentage had been scheduled separately and solely for each Assignor’s own use.

H. NCPA will strive to equitably allocate a portion of the common savings generated, if any, associated with Joint Assignment Administration Services to Assignor in accordance with this Agreement.
I. Assignor desires NCPA to establish facilities, staff and the capability to enable NCPA to provide Joint Assignment Administration Services to Assignor.

J. NCPA has established facilities, staff and the capability for the provision of Joint Assignment Administration Services to Assignor.

K. This Agreement is an Operating Services Agreement; therefore, this Agreement shall be considered to be a Services Agreement pursuant to the Power Management and Administrative Services Agreement.

L. Assignor agrees to pay its allocated share of costs for Joint Assignment Administration Services pursuant to this Agreement and the Power Management and Administrative Services Agreement.

M. Assignor further desires, insofar as possible, to insulate itself and each other Member, whether or not such Member is also an Assignor, from risks inherent in the services and activities undertaken on behalf of any given Assignor or Assignors.

NOW, THEREFORE, the Parties agree as follows:

Section 1. Definitions.

1.1 Definitions. Whenever used in this Agreement (including the Recitals hereto), the following terms shall have the following respective meanings, provided, capitalized terms used in this Agreement (including the Recitals hereto) that are not defined in Section 1 of this Agreement shall have the meaning indicated in Section 1 of the Power Management and Administrative Services Agreement:
1.1.1 “Agreement” means this Assignment Administration Agreement, including all Appendices attached hereto.

1.1.2 “Assignment Contract” means the contract between NCPA and Assignor and approved by the Western Area Power Administration, providing for the assignment of Assignor’s Base Resource Percentage to NCPA.

1.1.3 “Assignor” is a party to an Assignment Contract assigning its Base Resource Percentage to NCPA. Assignor is also a Member, a signatory to the Power Management and Administrative Services Agreement, and a signatory to this Agreement.

1.1.4 “Base Resource Percentage” means Assignor’s percentage share of Western Area Power Administration Base Resource under its Base Resource Contract ________________, prior to assigning the Base Resource Percentage to NCPA. Base Resource Percentage may be modified by Western Area Power Administration from time to time as contemplated in Base Resource Contract ________________.

1.1.5 “Base Resource” means the energy, capacity and associated products made available from the Western Area Power Administration on a daily basis as a result of Assignor’s Base Resource Percentage.
1.1.6 “Base Resource Energy” means the associated electrical energy and capacity made available from the Western Area Power Administration on a daily, monthly or annual basis as a result of Assignor’s Base Resource Percentage.

1.1.7 “Joint Assignment Administration Services” has the meaning set forth in the Section 3.2 of this Agreement.

1.1.8 “NCPA” has the meaning set forth in the recitals hereto.

1.1.9 “NCPA Base Resource Contract” means Contract 21-SNR-02661, dated as of November 12, 2021 between NCPA and the Department of Energy Western Area Power Administration Sierra Nevada Region.

1.1.10 “Party” or “Parties” has the meaning set forth in the recitals hereto; provided that “Third Parties” are entities that are not party to this Agreement.

1.1.11 “Power Management and Administrative Services Agreement” means the NCPA Power Management and Administrative Services Agreement, dated as of October 1, 2014, between NCPA and the Members who are signatories to that agreement by which NCPA provides Power Management and Administrative Services.

1.1.12 “Third Party” means an entity (including a Member) that is not a Party to this Agreement.
1.2 **Rules of Interpretation.** All words and references as used in this Agreement (including the Recitals hereto), unless in any such case the context requires otherwise, shall be interpreted pursuant to Section 1.2 of the Power Management and Administrative Services Agreement.

**Section 2. Purpose.** The purpose of this Agreement is to set forth the terms and conditions under which NCPA will supply efficient and cost effective Joint Assignment Administration Services for Assignors Base Resource Percentages assigned to NCPA.

**Section 3. Duties and Authorities.**

3.1 **Commission Duties.** The Commission’s duties and authorities include, but are not limited to, the following:

3.1.1 Act on behalf of NCPA in carrying out any action properly taken pursuant to the provisions of this Agreement. The Commission, or its designee, shall have the authority on behalf of all NCPA to execute any contract, lease or other instrument which has been properly authorized pursuant to this Agreement including documents supplementing this Agreement, contracts with Third Parties, contracts relating Base Resource and related items.

3.1.2 Establish standards, in addition to the authority provided in other sections of this Agreement, with respect to any aspect of arrangements between NCPA and Assignors, which it determines may adversely affect the
administration of the Base Resource Percentage assigned to NCPA, and to review such arrangements to determine compliance with such standards.

3.1.3 In addition, the Commission shall have such further powers and duties as are conferred or imposed upon it by other sections of this Agreement.

3.2 General Manager Duties. The General Manager, or his or her designee, shall have the duties and authorities as necessary to provide for the day-to-day administration of this Agreement, which include, but are not limited to, the following actions (collectively referred to herein as “Joint Assignment Administration Services”):

3.2.1 Carry out directions of the Commission with respect to matters related to this Agreement.

3.2.2 Coordinate interchange accounting and maintain records pertaining to the administration of the Base Resource Percentage assigned to NCPA, including determination of the volume of power delivered to each Assignor for each calendar month.

3.2.3 Supply certain Power Management and Administrative Services to Assignor, including, but not limited to, scheduling and settlement of Base Resource Energy in accordance with the terms and conditions of the Amended and Restated Scheduling Coordination Program Agreement and this Agreement.

3.2.4 Prepare and submit a proposed budget for assignment-related expenditures for the ensuing fiscal year to appropriate committees and the

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Commission, on such schedule as established by the Commission or consistent with the NCPA annual budget process.

3.2.5 Furnish such information and reporting as are required to keep this Assignor informed of the outlook for, the functioning of, and results achieved with regard to the Base Resource Percentage assigned to NCPA.

3.2.6 Implement operating principles, practices and procedures as they relate to the economy of operation of the Base Resource Percentages assigned to NCPA.

3.2.7 Calculate costs for the Base Resource Percentage assignment transactions among Assignors.

3.2.8 Develop a billing system for Base Resource Percentage transactions pursuant to this Agreement, including criteria, rules, and standards thereto.

3.2.9 Issue an invoice to Assignor for Base Resource Percentage related costs.

3.2.10 Assist Assignor in making sales and purchases of generation and transmission capacity related to their Base Resource Percentage assigned to NCPA.
3.2.11 Initiate and make long and short-range planning studies with respect to the Base Resource Percentage assigned to NCPA. These studies shall be updated annually, or at such other times as the Commission may direct.

3.2.12 Develop any needed generation and transmission resource plans related to the Base Resource Percentage assigned to NCPA, in consultation with Assignor.

3.2.13 Act on behalf of Assignor, as directed in writing by Assignor, and in accordance with Assignor’s power purchasing statues, regulations, rules, ordinances, and charter, as they may apply, to subscribe to additional Western Area Power Administration products other than Base Resources, that Western Area Power Administration chooses to market in proportion to each of its customers’ Base Resource Percentage, including taking delivery of environmental attributes for compliance purposes.

3.3 Assignor Duties. Assignor’s duties and authorities include, but are not limited to the following:

3.3.1 Assignor shall cooperate with NCPA in providing its relevant load and resource data to NCPA in a timely fashion to insure NCPA can satisfy NCPA Base Resource Contract requirements, and that is required to enable NCPA to supply Joint Assignment Administration Services on behalf of Assignor.
3.3.2 Assignor shall indemnify NCPA in regard to Joint Assignment Administration Services provided by NCPA in accordance with this Agreement.

3.3.3 Assignor shall pay for all costs and charges incurred by NCPA under this Agreement, including, but not limited to, Base Resource costs, Administrative Services Costs and Power Management Services Costs.

Section 4. **Allocations.**

4.1 Western Allocations Excluded From this Agreement.

4.1.1 All benefits, costs, and energy schedules associated with the CVP Corporation’s Energy Exchange Arrangements for Project Use and First Preference Support program shall not be subject to this Agreement. This exclusion applies to all Bank Energy and Bank Return Energy schedules allocated by the CVP Corporation.

4.1.2 Base Resource Percentage that is not assigned to NCPA will not be subject to this Agreement, and will be scheduled only for the benefit of the Member receiving the allocation.

4.1.3 A Member who does not assign its Base Resource Percentage to NCPA shall not be subject to this Agreement.

4.2 Determination of Benefits. In order to determine the benefits of assigning each Member’s Base Resource Percentage to NCPA for joint administration, NCPA staff will first estimate the value of the Base Resource Percentage as if no assignment has
been executed, then compare this value with the value obtained through NCPA’s joint administration of all Base Resource Percentages assigned to NCPA. The computational algorithm for this comparison is contained in Appendix A of this Agreement; however, such algorithm, as it may be refined from time to time by the Commission, shall be consistent with the following policy goals agreed to by each Assignor, namely (i) Base Resource Energy shall be fully utilized to the maximum extent possible, (ii) subject to (i) above, Base Resource Energy shall be scheduled during those time periods that maximize its value; and (iii) consistent with scheduling Base Resource Energy to maximize its overall net value, NCPA will also seek to reasonably minimize associated transmission-related and other applicable costs. NCPA staff shall monitor the results of the algorithm contained in Appendix A and recommend corrective action be taken if and when application of this procedure results in allocations of benefits and costs to Assignor that is inconsistent with the policy goals and allocation parameters described in this Section 4.

4.3 Allocation of Benefits.

4.3.1 For each monthly accounting period, all benefits attained through NCPA’s joint administration of Base Resource Percentages assigned to NCPA shall be allocated to Assignor proportionately to (i) the number of days this Agreement is in force that month, i.e., the fraction of the month this Agreement is in force, and (ii) the amount of Base Resource Energy attributed to Assignor hereunder.

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4.3.2 One-half of any benefits shall be allocated to that group of Assignors providing Base Resource Energy in excess of their own load, and the remaining one-half of benefits shall be allocated to that group of Assignors whose load exceeds the Base Resource Energy they have assigned.

4.3.3 Each individual Assignor within either group shall receive a share of the group’s benefit proportional to its contribution to the group’s excess energy or excess load respectively, as further set forth in Appendix A.

Section 5. Resource Planning.

5.1 NCPA staff, in consultation with Assignor’s staff, shall perform necessary forecasts, studies and resource planning related to maximizing the overall value of the integrated Base Resource Percentage assigned to NCPA. NCPA staff shall perform member-specific forecasts, studies and resource plans for the benefit of the individual Assignor so requesting only upon receiving a detailed written request from Assignor particularly describing the task requested to be performed as part of a duly authorized Services Agreement between the individual Assignor and NCPA.

Section 6. Resource Sale and Purchase.

6.1 Sales and Transfers to Third Parties. Sales and transfers of Base Resource Energy to entities that have not assigned a Base Resource Percentage to NCPA, under the authorization of the Western Area Power Administration, are strictly prohibited without the express written consent of the Western Area Power Administration.
6.2 Penalties. Any penalties incurred for violation of Section 6.1 shall be the sole responsibility of Assignor found to be in noncompliance with Section 6.1.

Section 7. O&M Funding and Restoration Costs.

7.1 NCPA shall pass through to Assignor on an as-billed basis any and all charges or credits related to the Western Area Power Administration Agreement for the Funding of Operations and Maintenance for Central Valley Project Power Facilities ("O&M Funding") and the Central Valley Project Improvement Act Restoration Funding, as part of the normal billing procedure described in Section 9 of this Agreement.

Section 8. Central Dispatch and Scheduling Services.

8.1 Central Dispatch. Each Assignor shall, to the fullest extent practicable, subject its Base Resource Percentage to the central dispatch of NCPA. The objective of the central dispatch with respect to the Base Resource Percentage is to supply energy and capacity requirements of the combined Assignors at the lowest practicable costs, and in a reliable and safe manner.

8.2 Base Resource Scheduling. Base Resource Energy shall be scheduled in accordance with the terms and conditions of the Amended and Restated Scheduling Coordination Agreement, this Agreement and other applicable requirements. NCPA and Assignor shall cooperate to meet each applicable scheduling timeline and protocol.
to maximize the value of the Base Resource Percentage assigned to NCPA, and correspondingly minimize related transmission costs.

Section 9. **Billing and Payments.**

9.1 **Invoices.** NCPA will issue an invoice to Assignor for its share of estimated and actual costs associated with NCPA’s provision of Joint Assignment Administration Services, including Base Resource costs, Administrative Services Costs, Power Management Services Costs, O&M Funding costs, Central Valley Project Improvement Act Restoration Funding costs, and all other costs for services provided in accordance with this Agreement. Such invoice may be either the All Resources Bill or separate special invoice, as determined by NCPA. Such invoices will be made pursuant to the requirements and procedures provided for in this Agreement and all other applicable agreements. At NCPA’s discretion, invoices may be issued to Assignor using electronic media or physical distribution.

9.2 **Payment of Invoices.** All invoices delivered by NCPA (including the All Resources Bill) are due and payable thirty (30) Calendar Days after the date thereof; provided, however, that any amount due on a day other than a Business Day may be paid on the following Business Day.

9.3 **Late Payments.** Any amount due and not paid by Assignor in accordance with Sections 9 shall be considered late and bear interest computed on a daily basis until paid at the lesser of (i) the per annum prime rate (or reference rate) of the Bank of...
America NT&SA then in effect, plus two percent (2%) or (ii) the maximum rate permitted by law.

9.4 Billing Disputes. Assignor may dispute the accuracy of any invoice issued by NCPA under this Agreement by submitting a written dispute to NCPA, within thirty (30) Calendar Days after the date of such invoice; nonetheless Assignor shall pay the full amount billed when due. If Assignor does not timely question or dispute the accuracy of any invoice in writing, then the invoice shall be deemed to be correct. Upon review of a submitted dispute, if an invoice is determined by NCPA to be incorrect, NCPA shall issue a corrected invoice and refund any amounts that may be due to Assignor. If NCPA and Assignor fail to agree on the accuracy of an invoice within thirty (30) Calendar Days after Assignor has disputed it, then the General Manager shall promptly, but no later than the second Commission meeting after the failure to agree, submit the dispute to the Commission for resolution. If the Commission and Assignor fail to agree on the accuracy of a disputed invoice within sixty (60) Calendar Days after its submission to the Commission, then the dispute may then be resolved under the mediation and arbitration procedures set forth in Section 16 of this Agreement; provided, however, that prior to resorting to either mediation or arbitration proceedings, the full amount of the disputed invoice must have been paid.

9.5 Billing/Settlement Data and Examination of Books and Records.
9.5.1 **Billing/Settlement Data.** NCPA shall make billing and settlement data available to Assignor in the All Resources Bill, or other invoice, or upon request. NCPA may also, at its sole discretion, make billing and settlement support information available to Assignor using electronic media (e.g. electronic data portal). Procedures and formats for the provision of such electronic data submission may be as established by the Commission from time to time. Without limiting the generality of the foregoing, NCPA may, in its reasonable discretion, require Assignor to execute a non-disclosure agreement prior to providing access to the NCPA electronic data portal.

9.5.2 **Examination of Books and Records.** Assignor shall have the right to examine the books and records created and maintained by NCPA pursuant to this Agreement at any reasonable, mutually agreed upon time.

**Section 10. Cooperation and Further Assurances.** Each of the Parties agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by any other Party, which are consistent with the provisions of this Agreement and which do not involve the assumption of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement.

**Section 11. Assignor Covenants and Defaults.**
11.1 Assignor covenants and agrees: (i) to make payments to NCPA, from its Electric System Revenues, of its obligations under this Agreement as an operating expense of its Electric System; (ii) to fix the rates and charges for services provided by its Electric System, so it will, at all times, have sufficient Revenues to meet the obligations of this Agreement, including the payment obligations; (iii) to make all such payments due NCPA under this Agreement whether or not there is an interruption in, interference with, or reduction or suspension of services provided under this Agreement, such payments not being subject to any reduction, whether by offset or otherwise, and regardless of whether any dispute exists; subject to Section 9.4 and (iv) to operate its Electric System, and the business in connection therewith, in accordance with Good Utility Practice.

11.2 Events of Default. An Event of Default under this Agreement shall exist upon the occurrence of any one or more of the following by Assignor (the “Defaulting Assignor”):

(i) the failure of Assignor to make any payment in full to NCPA when due, where such failure is not cured within thirty (30) Calendar Days following receipt of a notice from NCPA demanding cure;

(ii) the failure of Assignor to perform any covenant or obligation of this Agreement where such failure is not cured within thirty (30) Calendar Days following
receipt of a notice from NCPA demanding cure; provided, that this subsection shall not apply to any failure to make payments specified by subsection 11.2 (i));

(iii) if any representation or warranty of Assignor material to the services provided hereunder shall prove to have been incorrect in any material respect when made and Assignor does not cure the facts underlying such incorrect representation or warranty so that the representation or warranty becomes true and correct within thirty (30) Calendar Days of the date of receipt of notice from NCPA demanding cure; or

(iv) if Assignor is in default or in breach of any of its covenants under any other agreement with NCPA and such default or breach is not cured within the time periods specified in such agreement.

11.3 Uncontrollable Forces. A Party shall not be considered to be in default in respect of any obligation hereunder if prevented from fulfilling such obligation by reason of Uncontrollable Forces; provided, that in order to be relieved of an Event of Default due to Uncontrollable Forces, a Party affected by an Uncontrollable Force shall:

(i) first provide oral notice to the General Manager using telephone communication within two (2) Business Days after the onset of the Uncontrollable Force, and subsequently provide written notice to the General Manager within ten (10) Business Days after the onset of the Uncontrollable Force, describing its nature and extent, the obligations which the Party is unable to fulfill, the anticipated duration of the
Uncontrollable Force, and the actions which the Party will undertake so as to remove such disability and be able to fulfill its obligations hereunder; and

(ii) use due diligence to place itself in a position to fulfill its obligations hereunder and if unable to fulfill any obligation by reason of an Uncontrollable Force such Party shall exercise due diligence to remove such disability with reasonable dispatch; provided, that nothing in this subsection shall require a Party to settle or compromise a labor dispute.

11.4 Cure of an Event of Default. An Event of Default shall be deemed cured only if such default shall be remedied or cured within the time periods specified in Section 11.2 above, as may be applicable, provided, however, upon request of the Defaulting Assignor the Commission may waive the default at its sole discretion, where such waiver shall not be unreasonably withheld.

11.5 Remedies in the Event of Uncured Default. Upon the occurrence of an Event of Default, which is not cured within the time limits specified in Section 11.2, without limiting other rights or remedies available under this Agreement, at law or in equity, and without constituting or resulting in a waiver, release or estoppel of any right, action or cause of action NCPA may have against the Defaulting Assignor, NCPA may take any or all of the following actions:

(i) suspend the provision of services under this Agreement to such Defaulting Assignor;
(ii) demand that the Defaulting Assignor provide further assurances to guarantee the correction of the default, including the collection of a surcharge or increase in electric rates, or such other actions as may be necessary to produce necessary Revenues to correct the default;

(iii) terminate this Agreement as to the Defaulting Assignor, on ten (10) Calendar Days prior written notice to the Defaulting Assignor; or

(iv) enforce all other rights or remedies available to it under any other agreement in which the Defaulting Assignor is a signatory.

11.6 Effect of Termination or Suspension.

11.6.1 Generally. The termination or suspension of this Agreement will not terminate, waive, or otherwise discharge any ongoing or undischarged liabilities, credits or obligations arising from this Agreement until such liabilities, credits or obligations are satisfied in full.

11.6.2 Suspension. If performance of all or any portion of this Agreement is suspended by NCPA with respect to Assignor in accordance with subsection 11.5(i), then such Assignor shall pay any and all reasonable costs incurred by NCPA as a result of such suspension including reasonable attorney fees, the fees and expenses of other experts, including auditors and accountants, or other reasonable and necessary costs associated with such suspension and any portion of the costs associated with NCPA’s provision of Joint Assignment Administration
Services, including Administrative Services Costs, that were not recovered from Assignor as a result of such suspension.

11.6.3 Termination. If this Agreement is terminated by NCPA with respect to Assignor in accordance with Section 11.5(iii), then such Assignor shall pay any and all costs incurred by NCPA as a result of such termination, including reasonable attorney fees, the fees and expenses of other experts, including auditors and accountants, other reasonable and necessary costs associated with such termination and any portion of costs associated with NCPA’s provision of Joint Assignment Administration Services that were not, or will not be, recovered from Assignor as a result of such termination.

Section 12. NCPA Administrative Costs.

12.1 Cost of Services. All costs associated with NCPA’s provision of Joint Assignment Administration Services to Assignor, including, but not limited to, Administrative Services Costs and Power Management Services Costs, shall be allocated to Assignor in accordance with this Agreement and the Power Management and Administrative Services Agreement.

12.2 Base Resource and Associated Costs. Assigner agrees to and acknowledges its mandatory obligation to pay its allocated share of costs associated with its Base Resource Percentage, including, but not limited to, Base Resource costs,
O&M Funding costs and Central Valley Project Improvement Act Restoration Funding costs, as invoiced in its All Resources Bill.

Section 13. **Administration of Agreement.**

13.1 **General.** The Commission has sole overall responsibility and authority for the administration of this Agreement. Any acts, decisions or approvals taken, made or sought by NCPA under this Agreement shall be taken, made or sought, as applicable, in accordance with the Joint Powers Agreement, the NCPA Commission Bylaws and Section 13.2 of this Agreement.

13.2 **Action by Commission.**

13.2.1 **Forum.** Whenever any action anticipated by or related to this Agreement is to be taken by Assignors, such actions shall be taken at a regular or special meeting of the Commission, but shall be participated in only by those Commissioners, or their designated alternates (“Alternate”), who represent Assignors.

13.2.2 **Quorum.** A quorum of the Commission, for purposes of acting upon matters relating to this Agreement, shall consist of those Commissioners, or their Alternate, representing each and every Assignor.

13.2.3 **Voting.** Each Assignor shall have the right to cast one vote with respect to matters pertaining to this Agreement. Actions of the Commission with
regard to this Agreement shall be effective upon the unanimous affirmative vote of all Assignors.

13.3 **Adoption and Amendment of Annual Budget.** Annually, the Commission shall adopt an Annual Budget, which includes, but is not limited to, all costs attributed to services provided under this Agreement, for at least the next succeeding Fiscal Year in accordance with the Joint Powers Agreement and this Agreement; provided, however, that the Commission may in its discretion adopt a two-year budget if permitted to do so by the NCPA Commission Bylaws or the Joint Powers Agreement.

13.4 **Facilities Committee.** The Facilities Committee has been established pursuant to the Amended and Restated Facilities Agreement to act as an advisory committee to the Commission. The Commission may, in coordination with the General Manager, refer matters pertaining to the administration of this Agreement to the Facilities Committee for review and recommendation, including, but not limited to, proposed amendments to this Agreement and to the Appendices. If the Commission or General Manager refers matters pertaining to the administration of this Agreement to the Facilities Committee, then NCPA will provide a copy of the public notice of the Facilities Committee meeting at which the matter will be discussed to Assignors. The Facilities Committee may act upon such matters referred to it by the Commission in accordance with the procedures, including the general administration quorum and voting procedures, set forth in the Amended and Restated Facilities Agreement. Any
recommendations of the Facilities Committee shall be made to the Commission and others, as appropriate, in coordination with the General Manager.

**Section 14. Term and Termination.**

14.1 **Effective Date.** This Agreement shall become effective on the date this Agreement has been duly executed by Assignor and NCPA (the “Effective Date”). NCPA shall notify all Assignors in writing of the Effective Date.

14.2 **Term and Termination.** Of necessity, the term of this Agreement must coincide with the term of the underlying Assignor’s Assignment Contract. More specifically, this Agreement shall terminate automatically upon the termination of the Assignment Contract.

14.3 **No Effect on Prior Liabilities.** Termination of this Agreement will not terminate any ongoing or un-discharged liabilities, credits or obligations, including any contingent liabilities, credits or obligations, resulting from this Agreement until they are satisfied in full.

Assignor shall not be obligated to compensate the remaining Assignors for loss of any benefits that would have accrued to the remaining Assignors if this Agreement was not terminated. Nor shall the remaining Assignors be obligated to compensate Assignor for any benefits that accrue to the remaining Assignors because of the termination.

**Section 15. Other Agreements.**
15.1 **Precedence of Agreement.** This Agreement complements the Joint Powers Agreement. It extends the responsibility and authorities assigned to the Commission and to the General Manager under the terms of the Joint Powers Agreement.

15.2 **Pooling Agreement.** This Agreement supersedes the Second Amended and Restated Pooling Agreement, and takes precedence with respect to issues addressed in this Agreement to the receipt, delivery, scheduling, accounting and billing for all Base Resource Percentage assigned to NCPA to which Assignor is entitled for as long as this Agreement is in effect.

15.3 **Other Agreements.** With the exception of the Power Management and Administrative Services Agreement and Amended and Restated Scheduling Coordination Program Agreement, this Agreement shall upon the Effective Date, take precedence with respect to issues addressed in this Agreement and also addressed in any other agreement between Assignor and NCPA. With respect to issues common to the Power Management and Administrative Services Agreement and Amended and Restated Scheduling Coordinator Program Agreement, the Power Management and Administrative Services Agreement and Amended and Restated Scheduling Coordinator Program Agreement shall take precedence over this Agreement.

**Section 16. Settlement of Disputes and Arbitration.** The Parties agree to make best efforts to settle all disputes among themselves connected with this Agreement as a matter of normal business under this Agreement. The procedures set forth in Section 10
of the Power Management and Administrative Services Agreement shall apply to all
disputes that cannot be settled by the Parties; provided, that the provisions of Section
9.4 shall first apply to all disputes involving invoices prepared by NCPA.

Section 17. Reports and Records.

17.1 Reports. Assignor and NCPA shall each prepare and make available to
the other all data necessary for each to (i) perform all duties required under this
Agreement, and (ii) verify the accuracy of all amounts due and payable under this
Agreement. Examples of data to be made available by NCPA at Assignor’s request
includes, but are not limited to:

17.1.1 All load data relevant to Assignor’s Base Resource Percentage
assigned to NCPA.

17.1.2 All CAISO or other cost information relevant to determining the
cost savings obtained by Assignor due to the Base Resource Percentage assigned to
NCPA.

17.1.3 Such additional reports and records as are reasonably requested
in writing; provided, however, that Assignor so requesting shall reimburse NCPA
for costs associated with producing reports that are not essentially completed or
kept in the ordinary course of business.

17.2 Reports to Other Agencies. NCPA will submit such reports and records
which are required or may be required by Western Area Power Administration, or
other local, state or referral agencies, as such reports and records are required for NCPA to fulfill its obligations under this Agreement.

Section 18. Miscellaneous.

18.1 Confidentiality. The Parties will keep confidential all confidential or trade secret information made available to them in connection with this Agreement, to the extent possible, consistent with applicable laws, including the California Brown Act and Public Records Act. Confidential or trade secret information shall be marked or expressly identified as such.

If a Party (“Receiving Party”) receives a request from a Third Party for access to, or inspection, disclosure or copying of, any of the other Party’s (the “Supplying Party”) confidential data or information (“Disclosure Request”), then the Receiving Party shall provide notice and a copy of the Disclosure Request to the Supplying Party within three (3) Business Days after receipt of the Disclosure Request. Within three (3) Business Days after receipt of such notice, the Supplying Party shall provide notice to the Receiving Party either:

(i) the Supplying Party believes there are reasonable legal grounds for denying or objecting to the Disclosure Request, and the Supplying Party requests the Receiving Party to deny or object to the Disclosure Request with respect to identified confidential information. In such case, the Receiving Party shall deny the Disclosure Request and the Supplying Party shall defend the denial of the Disclosure Request at its
sole cost, and it shall indemnify the Receiving Party for all costs associated with
denying or objecting to the Disclosure Request. Such indemnification by the Supplying
Party of the Receiving Party shall include all of the Receiving Party’s costs reasonably
incurred with respect to denial of or objection to the Disclosure Request, including but
not limited to costs, penalties, and the Receiving Party’s attorney’s fees; or

(ii) the Receiving Party may grant the Disclosure Request without any
liability by the Receiving Party to the Supplying Party.

18.2 Indemnification and Hold Harmless. Subject to the provisions of Section
18.4, Assignor agrees to indemnify, defend and hold harmless NCPA and its Members,
including their respective governing boards, officials, officers, agents, and employees,
from and against any and all claims, suits, losses, costs, damages, expenses and liability
of any kind or nature, including reasonable attorneys’ fees and the costs of litigation,
including experts (the “Damages”), to the extent caused by any act, omission, breach of
contract, negligence (active or passive), gross negligence, recklessness, or willful
misconduct of Assignor, its governing officials, officers, employees, subcontractors or
agents, to the maximum extent permitted by law.

18.3 Several Liabilities. No Assignor shall be liable under this Agreement for
the obligations of any other Assignor, and each Assignor shall be solely responsible and
liable for performance of its obligations under this Agreement, except as otherwise
provided for herein, and the obligation of each Assignor under this Agreement is a several obligation and not a joint obligation with those of the other Assignors.

18.4 No Consequential Damages. FOR ANY BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER DAMAGES OR REMEDIES ARE HEREBY WAIVED. IF NO REMEDY OR MEASURE OF DAMAGE IS EXPRESSLY PROVIDED, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE HEREBY WAIVED. IN NO EVENT SHALL NCPA OR ANY ASSIGNOR OR THEIR RESPECTIVE SUCCESSORS, ASSIGNS, REPRESENTATIVES, DIRECTORS, OFFICERS, AGENTS, OR EMPLOYEES BE LIABLE FOR ANY LOST PROFITS, CONSEQUENTIAL, SPECIAL, EXEMPLARY, INDIRECT, PUNITIVE OR INCIDENTAL LOSSES OR DAMAGES, INCLUDING LOSS OF USE, LOSS OF GOODWILL, LOST REVENUES, LOSS OF PROFIT OR LOSS OF CONTRACTS EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NCPA AND EACH ASSIGNOR EACH HEREBY WAIVES SUCH CLAIMS AND RELEASES EACH OTHER AND EACH OF SUCH PERSONS FROM ANY SUCH LIABILITY.
The Parties acknowledge that California Civil Code section 1542 provides that: “A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.” The Parties waive the provisions of section 1542, or other similar provisions of law, and intend that the waiver and release provided by this Section of this Agreement shall be fully enforceable despite its reference to future or unknown claims.

18.5 Waiver. No waiver of the performance by a Party of any obligation under this Agreement with respect to any default or any other matter arising in connection with this Agreement shall be effective unless given by the Commission. Any such waiver by the Commission in any particular instance shall not be deemed a waiver with respect to any subsequent performance, default or matter.

18.6 Amendments.

18.6.1 Amendments in General. Except where this Agreement specifically provides otherwise, this Agreement may be amended only by written instrument executed by the Parties with the same formality as this Agreement.

18.6.2 Approval and Amendment to Appendices. Notwithstanding Section 18.6.1, any addition to, amendment to or removal of the Appendices of this Agreement shall take effect after being approved by the Commission in a manner
consistent with the voting procedures set forth in Section 12 without the
requirement of an approval of Assignor’s governing bodies.

18.7 Assignment of Agreement.

18.7.1 Binding Upon Successors. This Agreement, including the
Appendices attached hereto, shall inure to the benefit of and shall be binding upon
the respective successors and assignees of the Parties to this Agreement.

18.7.2 No Assignment. This Agreement, nor any interest herein, shall
be transferred or assigned by a Party hereto except with the consent in writing of the
other Parties hereto, where such consent shall not be unreasonably withheld.
Without limiting the foregoing, this Agreement shall not be assigned by Plumas-
Sierra Rural Electric Cooperative without the approval in writing of the
Administrator of the Rural Electrification Administration Utilities Service.

18.8 Severability. In the event that any of the terms, covenants or conditions of
this Agreement or the application of any such term, covenant or condition, shall be held
invalid as to any person or circumstance by any court having jurisdiction, all other
terms, covenants or conditions of this Agreement and their application shall not be
affected thereby, but shall remain in force and effect unless the court holds that such
provisions are not severable from all other provisions of this Agreement.

18.9 Governing Law. This Agreement shall be interpreted, governed by, and
construed under the laws of the State of California.
18.10 **Headings.** All indices, titles, subject headings, section titles and similar items are provided for the purpose of convenience and are not intended to be inclusive, definitive, or affect the meaning of the contents of this Agreement or the scope thereof.

18.11 **Notices.** Any notice, demand or request required or authorized by this Agreement to be given to any Party shall be in writing, and shall either be personally delivered to Assignor’s Commissioner or Alternate, and to the General Manager, or shall be transmitted to Assignor and the General Manager at the addresses shown on the signature pages hereof. The designation of such addresses may be changed at any time by written notice given to the General Manager. All such notices shall be deemed delivered when personally delivered, two (2) Business Days after deposit in the United States mail first class postage prepaid, or on the first Business Day following delivery through electronic communication.

18.12 **Warranty of Authority.** Each Party represents and warrants that it has been duly authorized by all requisite approval and action to execute and deliver this Agreement and that this Agreement is a binding, legal, and valid agreement enforceable in accordance with its terms. Upon execution of this Agreement, Assignor shall deliver to NCPA a resolution of the governing body of Assignor evidencing approval of and authority to enter into this Agreement.

18.13 **Counterparts.** This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an
original instrument and as if all the signatories to all of the counterparts had signed the
same instrument. Any signature page of this Agreement may be detached from any
counterpart of this Agreement without impairing the legal effect of any signatures
thereon, and may be attached to another counterpart of this Agreement identical in
form hereto but having attached to it one or more signature pages.

18.14 **Venue.** In the event that a Party brings any action under this Agreement,
the Parties agree that trial of such action shall be vested exclusively in the state courts of
California in the County of Placer or in the United States District Court for the Eastern
District of California.

18.15 **Attorneys’ Fees.** If a Party to this Agreement brings any action, including
an action for declaratory relief, to enforce or interpret the provisions of this Agreement,
each Party shall bear its own fees and costs, including reasonable attorneys’ fees,
associated with the action.

18.16 **Counsel Representation.** Pursuant to the provisions of California Civil
Code Section 1717 (a), each of the Parties were represented by counsel in the negotiation
and execution of this Agreement and no one Party is the author of this Agreement or
any of its subparts. Those terms of this Agreement which dictate the responsibility for
bearing any attorney’s fees incurred in arbitration, litigation or settlement in a manner
inconsistent with the provisions of Section 18.15 were intentionally so drafted by the
Parties, and any ambiguities in this Agreement shall not be interpreted for or against a Party by reason of that Party being the author of the provision.

18.17 **No Third Party Beneficiaries.** Nothing contained in this Agreement is intended by the Parties, nor shall any provision of this Agreement be deemed or construed by the Parties, by any third person or any Third Parties, to be for the benefit of any Third Party, nor shall any Third Party have any right to enforce any provision of this Agreement or be entitled to damages for any breach by the Parties of any of the provisions of this Agreement.

34
 ASSIGNMENT ADMINISTRATION AGREEMENT
IN WITNESS WHEREOF, NCPA and Assignor have, by the signature of its duly authorized representative shown below, executed and delivered a counterpart of this Agreement.

NORTHERN CALIFORNIA POWER AGENCY

ASSIGNOR NAME

651 Commerce Drive

ADDRESS

Roseville, CA 95678

CITY, STATE, ZIP

______________________________
By:__________________________
Title: __________________________
Date: _________________________

Approved as to form:

______________________________
By:__________________________
Its: General Counsel
Date: _________________________
APPENDIX A
BENEFITS SHARING ALLOCATION ALGORITHM

Updated: November 29, 2017

Introduction

Steps 1-9 determine each Assignor’s monthly percentage allocator that will be used to
distribute the benefits resulting from assigning the Base Resource to NCPA. Step 10
uses that percentage allocator to distribute the benefits.

All computational steps in this allocation algorithm will be implemented in a manner
that is consistent with NCPA staff’s goal of scheduling the assigned Base Resource (BR)
to maximize the economic market value of the BR.

Step 1: Constrained Own-Load Optimal Dispatch

NCPA staff shall perform after the fact monthly “own-load” optimal dispatch of each
Assignor’s BR to establish the value of the individual BR allocation to each Assignor
pre-assignments. The own-load dispatch shall be constrained by hourly loads equal to
each Assignor’s gross hourly loads such that BR energy schedules cannot exceed 100
percent of load in any hour. In addition, revenues Assignor would have received from
Western Area Power Administration (Western) through the re-marketing of its
“standard” energy allocations (the portion of monthly energy allocations that cannot be
utilized by Assignor) will be added to this value.

\[ Value_{OL,i} = \text{OLD}_{\text{Dispatch},i} \times LMP + \text{RemarketingRevenues}_i \]  

Where

- \( \text{OLD}_{\text{Dispatch}} \) = Assignor i hourly own-load constrained optimized BR dispatch
- \( Value_{OL} \) = Assignor i gross market value of \( \text{OLD}_{\text{Dispatch}} \)
- \( LMP \) = Hourly MEEA prices
- \( \text{RemarketingRevenues} \) = Estimated Western energy re-marketing revenue.

Step 2: Net Value of Own-Load Constrained Dispatch

All Western costs will be deducted from the values computed in Step 1.
Step 3: Unconstrained Own-Load Optimal Dispatch

Perform individual optimal dispatches without load constraints. The difference in net value between this un-constrained net value and the net value of each Assignor’s own-load constrained dispatch (NetValueOL) of Step 2 shall be the allocation determinant for 50% of the assignment benefit computed in Step 7.

\[
\text{NetBenOL}_i = \text{UnconstDisp}_i \times \text{LMP} - \frac{\text{UnconstDisp}_i \times \text{AvgCostBR}_m}{\sum_{i=1}^{n} \text{NetBenOL}_i} - \text{NetValueOL}_i
\]

Where
- \( \text{NetBenOL} \) = Net value increase when the load constraint is removed
- \( \text{UnconstDisp} \) = Optimized BR schedule without load constraint
- \( \text{AllocatorE} \) = Energy provider BR value allocator used in step 7.
Step 4: Daily Head-Room Value

Compute the value of load “head-room” provided by each Assignor during the day. Head-room value is a function of each Assignor’s net load (net of constrained own-load BR schedules) in each time-step when NCPA’s actual BR schedule exceeds the sum of Assignors’ own-load BR energy schedule.

\[
HR_{MW_{h,i}} = \text{Max}(0, \text{Load}_{h,i} - \text{OL}_\text{Dispatch}_{h,i})
\]  \hspace{1cm} (7)

\[
HR_{Need_{h}} = \sum_{i=1}^{n} \text{Max}(0, \text{BR}_\text{Schedule}_{h,i} - \text{Load}_{h,i})
\]  \hspace{1cm} (8)

\[
HR_{Share_{h,i}} = \frac{HR_{MW_{h,i}}}{\sum_{i=1}^{n} HR_{MW_{i,h}}}
\]  \hspace{1cm} (9)

\[
HR_{Value_{i}} = \sum_{h=1}^{24} (HR_{Need_{h}} \times \text{LMP}_\text{MEEA}_{h,i} \times HR_{Share_{h,i}})
\]  \hspace{1cm} (10)

\[
HR_{Value_{i}} = \begin{cases} 
\sum_{h=1}^{24} (HR_{Need_{h}} \times \text{LMP}_\text{MEEA}_{h,i} \times HR_{Share_{h,i}}), & \text{if } \text{BR}_\text{Schedule}_{h} - \sum_{i=1}^{n} \text{OL}_{i,h} > 0 \\
0, & \text{otherwise}
\end{cases}
\]

Where:

- \(HR_{MW}\) = Quantity of Headroom available in hour \(h\) from Assignor \(i\)
- \(HR_{Need}\) = Total quantity of Headroom needed by all the Assignors in hour \(h\)
- \(HR_{Share}\) = Percentage share of the Headroom made available in each hour by each Assignor
- \(BR_{Schedule}\) = Actual schedule of Western BR
- \(HR_{Value}\) = Daily value of Headroom provided by each assignor.

Step 5: Allocation of Headroom Provider

Compute the allocation determinant of 50% of the pooling benefit computed in Step 7 on the basis of the Headroom value for the month.

\[
\text{Allocator}_{L_i} = \frac{HR_{Value_{i}}}{\sum_{i=1}^{n} HR_{Value_{i}}}
\]  \hspace{1cm} (11)

Step 6: Net Daily Benefit of BR Assignment
Compute the daily net benefit of BR assignments to NCPA as the difference between the net market value of NCPA’s actual BR schedule and the net market value of the sum of Assignors’ own-load constrained daily dispatches. If the result is positive, then proceed to Step 7. If the result is negative proceed to Step 8.

\[ NetValueBR = BR\_Schedule_h \times (LMP_h - AvgCostBR_m) \]  
\[ NetBenefit = NetValueBR - \sum_{i=1}^{n} NetValueOL_i \]  

Where

- \( NetValueBR \) = Daily net market value of \( BR\_Schedule \)
- \( NetBenefit \) = The increase (or decrease) in daily BR value due to assignments

**Step 7: Allocate Positive Daily Net Benefit (Only if the Net Daily Benefit is Positive)**

Allocate one-half of the daily Net Benefit using AllocatorE and one-half using AllocatorL. Proceed to Step 9.

\[ AssignorBen_{i,d} = NetBenefit_d \times \frac{1}{2} \times (AllocatorE_{i,d} + AllocatorL_{i,d}) \]  

Where

- \( AssignorBen_{i} \) = Benefit of assignment allocated to Assignor \( i \).

**Step 8: (Only if Daily Net Benefit is Negative); Zero Benefit from Assignment**

Set value of zero for each Assignor.

\[ AssignorBen_{i} = 0 \ for \ all \ i \]  

**Step 9: Assign Constant Adjusted BR Percentage Shares for the Month**
Determine each Assignor’s monthly percentage share of NCPA’s BR by normalizing the sum of each Assignor’s daily Assignor Benefit and Net Value of Own-Load constrained dispatch. Each Assignor’s share of NCPA’s BR schedules in each time-step during the month shall be equal to the percentage computed in this step. For example, if a Member’s share in a given month is calculated as 15% in this step, that Member is assigned 15% of actual Western schedules each time-step during that month.

\[ \text{BRP}_{ct_i} = \frac{\sum_{day=1}^{d} (\text{AssignorBen}_{i,day} + \text{NetValueOL}_{i,day})}{\sum_{day=1}^{d} \sum_{i=1}^{n} (\text{AssignorBen}_{i,day} + \text{NetValOL}_{i,day})} \]  

Where
\[ \text{BRP}_{ct} = \text{Optimized BR Percentage Shares}. \]  
Assignor i share of BR _Schedule_ and associated benefits.

**Step 10: Assign Base Resource Costs**

Assign any difference between NCPA’s actual BR costs and the sum of the Own-Load constrained monthly costs. Positive or negative differences will be distributed to each assignor using the optimized BR shares calculated in step 9. Each assignor’s Western BR costs for the month (to be billed by NCPA) will equal the respective Own-Load constrained costs adjusted by this step added to Assignor’s Base Resource share.

\[ \text{BRCost}_i = \text{OL.Const.Cost}_i - \\\n\text{BRP}_{ct_i} \times (\text{BR.Cost}_m - \sum_{i=1}^{n} \text{OL.Const.Cost}_i) \]  

NCPA staff shall regularly monitor the results of this procedure and recommend corrective action to be taken if and when the application of this procedure results in counter-intuitive and/or unfair allocations of benefits and costs to Assignors.
REQUEST FOR ASSIGNMENT OF
CITY OF PALO ALTO’S
BASE RESOURCE PERCENTAGE
TO NORTHERN CALIFORNIA POWER AGENCY

1. BACKGROUND:


2. REQUEST FOR ASSIGNMENT OF PALO ALTO BR PERCENTAGE TO NCPA:

2.1 On the effective date of this Request for Assignment 21-SNR-02644 (Assignment), Palo Alto hereby requests WAPA assign its BR Percentage under BR 02365 to NCPA under NCPA’s BR Contract 21-SNR-02661 (BR 02661).

2.2 NCPA is agreeable to taking responsibility for Palo Alto’s 12.06299 percentage of BR.

2.3 As of the effective date, NCPA assumes all the rights, duties, and obligations associated with receiving Palo Alto’s BR Percentage under BR 02661.

2.4 Palo Alto and NCPA shall jointly and separately indemnify and hold WAPA harmless from and against all claims, damages, losses, and expenses, including attorney’s fees, arising out of or resulting from this Assignment.

2.5 Palo Alto and NCPA agree that either Palo Alto or NCPA may unilaterally submit a 90-day written notice to WAPA to terminate this Assignment. Termination shall become effective on the first day of the month following the 90-day period. On the effective date of the termination, this Assignment to NCPA shall terminate and the BR Percentage shall revert to Palo Alto. NCPA shall hold WAPA harmless from any and all claims, damages, losses, and expenses, including attorney’s fees, arising out of or resulting from issuing a notice to terminate or termination of this Assignment.

2.6 This Assignment shall remain in effect until the earlier of: (a) December 31, 2054; or (b) until it is terminated pursuant to Section 2.5 above.
3. REDUCTION OF PALO ALTO’S BR PERCENTAGE OR TERMINATION OF PALO ALTO’S BR 02365:

Section 4.2 of BR 02365 allows for Palo Alto to reduce its BR Percentage or terminate BR 02365 for any reason through June 30, 2024. Section 12.4 of BR 02365 also allows for Palo Alto to reduce its BR Percentage or terminate BR 02365 within ninety (90) days after the Rate Effective Date of a Rate Schedule or Rate Schedule extension.

3.1 Should WAPA receive a request from Palo Alto to reduce its BR Percentage, the BR Percentage assigned to NCPA shall be reduced in NCPA’s BR 02661 on the effective date of the reduced BR Percentage.

3.2 Should WAPA receive a request from Palo Alto to terminate Palo Alto’s BR 02365, Palo Alto’s assigned BR Percentage shall be returned to WAPA for reallocation on the effective date of the termination of Palo Alto’s BR 02365.

4. EXECUTION BY COUNTERPARTS:

This Assignment may be executed in any number of counterparts and, upon execution and delivery by each Party, the executed and delivered counterparts together shall have the same force and effect as an original instrument as if all Parties had signed the same instrument. Any signature page of this Assignment may be detached by any counterpart of this Assignment without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this identical in form hereto, by having attached to it one or more signature pages.

5. ELECTRONIC SIGNATURES:

The Parties agree that this Assignment may be executed by handwritten signature or digitally signed using Adobe Sign, Adobe E-Signature, or DocuSign. An electronic or digital signature is the same as a handwritten signature and shall be considered valid and acceptable.
6. AGREEMENT:

All parties to this Assignment agree that it will become effective on the first day of the first month following the date of approval by WAPA’s Administrator or a later date if agreed to by WAPA and Palo Alto.

CITY OF PALO ALTO

By: ________________________________
Name: ______________________________
Attest:
By: ________________________________
Name: ______________________________
Date: ______________________________

NORTHERN CALIFORNIA POWER AGENCY

By: ________________________________
Name: ______________________________
Attest:
By: ________________________________
Name: ______________________________
Date: ______________________________

The above Assignment of the BR Percentage from Palo Alto to NCPA under BR 02661 is hereby approved.

Date: ______________________________
By: Tracey A. LeBeau
   Administrator and Chief Executive Officer
   Western Area Power Administration
Meeting Date: 5/9/2022  
Report Type: Consent Calendar

Title: Approval of Construction Contract Number C22182558 with Enterprise Roofing Service, Inc. in an Amount Not-to-Exceed $497,233 to Replace the Existing H Wing Roof at Cubberley Community Center, Capital Improvement Program Project CB-16002; and Authorization of Contract Contingency in an Amount Not-to-Exceed $49,723 for Related, Additional but Unforeseen Work Which May Develop During the Project.

From: City Manager

Lead Department: Public Works

Recommendation
Staff recommends that Council:

1. Approve and authorize the City Manager or their designee to execute Construction Contract Number C22182558 with Enterprise Roofing Service, Inc. in the amount of $497,233 for the Cubberley Community Center H-Wing Re-Roof Project, Capital Improvement Program Project CB-16002; and
2. Authorize the City Manager or their designee to negotiate and execute one or more change orders to the construction contract with Enterprise Roofing Service, Inc. for related, additional but unforeseen work which may develop during the project, the total value of which shall not exceed $49,723.

Background
The existing Cubberley Community Center H-Wing roof has been in service for 29 years and is exhibiting signs of severe wear. The roof is leaking and has been patched several times in various locations. To avoid the potential for larger leaks and structural damage to the building, staff has determined that the roof needs a complete replacement.

Discussion

Project Description
This project will replace the existing H-wing roof with a new, energy efficient bituminous roof. The existing tar-and-gravel roof is past the end of its useful life and needs to be replaced. The application will meet current cool roofing codes to optimize energy efficiency. The roofing manufacturer will provide a 20 year, no dollar limit warranty.
Bid Process
On December 9, 2021, a notice inviting formal bids for the Cubberley Community Center H-Wing Re-Roof Project was posted online on the City’s PlanetBids e-procurement website. The bidding period was 41 days. Bids were received from 7 qualified contractors on January 18, 2022, as listed on the attached Bid Summary (Attachment A).

Summary of Invitation for Bids Process

<table>
<thead>
<tr>
<th>Bid Name/Number</th>
<th>Cubberley Community Center H-Wing Re-Roof Project, Capital Improvement Program Project CB-16002/IFB #182558</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Length of Project</td>
<td>45 calendar days</td>
</tr>
<tr>
<td>Total Days to Respond to Bid</td>
<td>30</td>
</tr>
<tr>
<td>Mandatory Pre-Bid Meeting</td>
<td>December 20, 2021 at 10:00 A.M.</td>
</tr>
<tr>
<td>Number of Company Attendees at Pre-Bid Meeting</td>
<td>24</td>
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<tr>
<td>Number of Bids Received:</td>
<td>7</td>
</tr>
<tr>
<td>Bid Price Range</td>
<td>$396,500 – $585,500</td>
</tr>
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</table>

Staff reviewed the seven bids, and all were deemed responsive. Bids ranged from a low bid of $396,500 to a high bid of $585,500 for the project. The lowest bidder asked to withdraw their bid in accordance with the Public Contract Code, due to an error in pricing. The request to withdraw was reviewed, found to comply with statutory requirements, and was thus approved. Staff recommends that the bid of $497,233 submitted by Enterprise Roofing Service, Inc. be accepted and that Enterprise Roofing Service, Inc. be declared the lowest responsible bidder. The low bid is 16.7 percent below the engineer's estimate of $596,736. The change order amount of $49,723 (which equals 10 percent of the total contract) is requested for related, additional but unforeseen work which may develop during the project. Staff confirmed with the Contractor's State License Board that the contractor has an active license on file. Staff also contacted the listed references for Enterprise Roofing Service, Inc. and found that they have performed satisfactorily on past construction projects for other clients.

Resource Impact
Funding for the re-roofing of Wing H contract recommended in this report is available in the Fiscal Year 2022 Adopted Budget for the Cubberley Property Infrastructure Fund Capital Improvement Program, Cubberley Roofing Replacements project CB-16002.

Policy Implications
The recommendation does not represent any changes to existing City policy.

Stakeholder Engagement
The Cubberley Community Center H Wing Re-Roof Project has been coordinated with the Community Services Department and the Cubberley tenants/users. It does not conflict with any upcoming events.

**Environmental Review**
This project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15301 of the CEQA Guidelines as repair, maintenance and/or minor alteration of existing facilities and no further environmental review is necessary.

**Attachments:**
- **Attachment6.a:** Attachment A: IFB182558 Bid Summary
Bid Results for Project: **Cubberley H Wing Re-roof**  
IFB182558

Issued on 12/09/2021  
Bid Due on January 18, 2022 3:00 PM (Pacific)

<table>
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<tr>
<th>Vendor Name</th>
<th>Mandatory Pre-Bid Meeting 12/20/21</th>
<th>Bid Form Signed</th>
<th>Questionnaire Signed</th>
<th>SubCon List</th>
<th>Non-Collusion</th>
<th>Bid Bond</th>
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<th>Addendum 2</th>
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<td>X</td>
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<td>Sub: Alliance Contracting Services</td>
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<td></td>
<td></td>
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<td></td>
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<td>Enterprise Roofing Service, Inc.</td>
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<td>X</td>
<td>X</td>
<td>X</td>
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<td>X</td>
<td>X</td>
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<tr>
<td>Sub: K S Kruse Plumbing Co</td>
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<tr>
<td>Sub: Alliance Contracting Inc.</td>
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**BASIS FOR AWARD:**

Packet Pg. 93
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Budget: $85,000.00
Title: Approval of Contract Amendment No. 1 to Contract Number C21179340 with Baker Tilly US, LLP. to Increase the Not-to-Exceed Compensation by $2,126,250 and Extend the Term for Three Additional Years for Continued Audit Services

From: City Manager

Lead Department: Administrative Services

RECOMMENDATION
The Council Appointed Officers Committee recommends that the City Council approve and authorize the City Manager or their designee to execute Amendment No. 1 (Attachment A) to Contract Number C21179340 (Attachment B) with Baker Tilly US, LLP, for an additional three years (Fiscal Years 2023, 2024 and 2025), a revision to project scope, and an increase of $2,126,250 for internal audit services. This amendment results in a revised total contract Not-To-Exceed (NTE) amount of $3,426,250 over five years.

EXECUTIVE SUMMARY
On September 28, 2020, the City Council appointed Kyle O’Rourke, MPA, CIA, CGAP, CRMA, Senior Consulting Manager with Baker Tilly US, LLP, as Palo Alto’s City Auditor, in conformance with the City’s Charter. A contract was executed, commencing October 1, 2020 through June 30, 2022, coinciding with part of Fiscal Year 2021 and the entirety of Fiscal Year 2022, in an amount not-to-exceed $1,300,000. The contract includes the option to extend the term for a period, or periods, up to three additional years, through June 30, 2025, by mutual agreement with compensation to be determined in such years as outlined by the contract.

The Council Appointed Officers (CAO) Committee met on March 8, 2022 (CMR 14129, packet p. 3) and recommends that the City Council exercise the option to extend the contract for three years, through June 30, 2025, and increase the total compensation by $2,126,250, resulting in a revised total contract not to exceed amount of $3,426,250.

BACKGROUND AND DISCUSSION
Per City Council direction on February 10, 2020 (CMR 11039), the Council Appointed Officers (CAO) Committee oversaw a request for proposals (RFP) process for outsourced internal auditing services, led a procurement process aligned with Council direction, and engaged in a transparent review of scope of work services, RFP evaluation, and a public interview process as
part of the overall effort. The services that were solicited include management and performance auditing as well as oversight of the City’s independent financial auditor which completes annual financial reporting including the City’s Annual Comprehensive Financial Report (ACFR).

From April 2020 to June 2020, the CAO Committee and evaluation team reviewed the RFP and evaluation process, developed the scope of services, and screened responses to the RFP. Written proposals were evaluated under the criteria provided in Palo Alto Municipal Code (PAMC) section 2.30.410 for formal requests for proposals. This work resulted in public interviews of top firms by the CAO Committee on July 28, 2020. Following these public interviews, the City Council conducted closed session interviews of the City Auditor candidates designated by the top firms recommended by the CAO Committee. Through the interview process, the Council selected Baker Tilly and Kyle O’Rourke to lead the City’s internal audit services.

Baker Tilly’s response to the formal RFP can be found here. The full resume of Mr. O’Rourke can be found in the Appendices pages viii – ix.

The CAO Committee met on March 8, 2022 to discuss contract extension terms with Baker Tilly for City Auditor services. The Committee unanimously voted that the City Council extend the contract with Baker Tilly for a term of three years and amend the contract scope, as detailed below:

**TERM:** This amendment will extend the contract through June 30, 2025.

**COMPENSATION:** Target value of compensation during the 3-year extension is $2,126,250. This reflects a 5% increase in compensation (both rates and authorized contract amount) in the first year and no increase in any of the remaining years.

- Year 3: $708,750;
- Year 4: $708,750;
- Year 5: $708,750

Total NTE of the overall contract over the full contract term of five years is $3,426,250.

**TERMINATION:** Termination is at City Council’s discretion with 10 days’ notice; Baker Tilly may terminate with 30 days’ notice only in event of a substantial failure of performance under the contract by the City.

**SCOPE AMENDMENT:** Revision to Task 6: Evaluation and Benchmarking, the first evaluation will be in October 2022, then every two years thereafter throughout
TIMELINE
If Council approves this amendment, audit services will continue through June 30, 2025. Task Orders will continue to be used for services, including performing the citywide risk assessment, preparation of an audit plan, and ongoing services support and evaluation.

RESOURCE IMPACT
As noted above, the annual cost for audit services from Baker Tilly will be $708,750 per year, for a new total not-to-exceed amount of $3,426,250 over the five year contract. Funding for this contract in FY 2023 is included in the FY 2023 Proposed Budget scheduled for discussion with the Finance Committee on May 11 and funding for future years of the contract is subject to the annual appropriation of funds.

STAKEHOLDER ENGAGEMENT
Selection of the City Auditor was done via the City’s formal solicitation process and was discussed in public CAO Committee meetings in 2020. The CAO Committee engaged in a discussion of the revised scope and extent on March 8, 2022.

ENVIRONMENTAL REVIEW
This activity is not a project under California Environmental Quality Act (CEQA) as defined in CEQA Guidelines, section 15378, because it has no potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment.

Attachments:
- Attachment7.a: Attachment B: C21179340 Baker Tilly US, LLP. Contract
- Attachment7.b: Attachment A: Baker Tilly US, LLP. C211794340 Amendment #1
CITY OF PALO ALTO CONTRACT NO. C21179340

AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
THE CITY OF PALO ALTO AND BAKER TILLY US, LLP

This Agreement for Professional Services (this “Agreement”) is entered into as of the 1st day of October, 2020, by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and BAKER TILLY US, LLP, an Illinois Limited Liability Partnership, located at 205 Michigan Avenue, Suite 2800, Chicago, IL 60601 ("CONSULTANT").

RECATALS

The following recitals are a substantive portion of this Agreement.

A. CITY issued request for proposals (RFP) F21-001 (Re-issue) for internal auditor services in accordance with City Charter and Municipal Code requirement (“Project”) and desires to engage a consultant to provide such internal auditor services in connection with the Project (“Services”).

B. CONSULTANT has represented that it has 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 Section 1 (Scope of Services) and Exhibit “A”, attached to and made a part of this Agreement.

D. On September 28, 2020, the Palo Alto City Council approved this Agreement and a resolution appointing Kyle O’Rourke as designated City Auditor.

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

AGREEMENT

SECTION 1. SCOPE OF SERVICES. CONSULTANT shall perform the Services described at Exhibit “A” (which includes without limitation the As Required Services detailed below in this Section 1) in accordance with the terms and conditions contained in this Agreement. The performance of all Services shall be to the reasonable satisfaction of CITY.

CONSULTANT shall provide As Required Services associated with the scope of services described in Exhibit A, to be authorized by CITY in writing as detailed herein. CITY may elect to, but is not required to, authorize As Required Services up to the maximum compensation amount set forth in Section 4. As Required Services, if any, shall be authorized by the CITY with a Task Order (as below) assigned and authorized by CITY’s Project Manager, as identified in Section 13 (Project Management), except as otherwise provided in the last paragraph of this Section 1, below. Each Task Order shall be in substantially the same form as the attached 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, and shall be drafted and proposed by CONSULTANT if so requested by CITY. Task Orders may be assigned at the task level as described in Exhibit A or associated sub-task level. Compensation for As Required Services shall be based on the compensation structure set forth in Section 4 and Exhibit B, including any authorized expenses, based on the hourly rates set forth in Exhibit B-1, or a negotiated lump sum, to be set forth in the Task Order.

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

The Task Orders for Tasks 1, 2, 3, and 5 for Fiscal Year 2020-21 are attached and hereby approved. Any changes to herein-approved Task Orders for Tasks 1, 2, 3, and 5 may be made by subsequent review and approval by the CITY’s Project Manager via amended Task Order, utilizing the Task Order approval process detailed herein.

SECTION 2. TERM. The term of this Agreement shall be from October 1, 2020 through June 30, 2022, coinciding with partial Fiscal Year 2020-21 (October 1, 2020 through June 30, 2021) and full Fiscal Year 2021-22 (July 1, 2021 through June 30, 2022), unless terminated earlier pursuant to Section 19 of this Agreement. The term of this Agreement may be extended by written instrument, in accordance with Section 27.4 of this Agreement, for any period or periods not to exceed three (3) additional years.

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 Scope of Services set forth in Exhibit A and/or the timeline set forth in the relevant Task Order, as applicable. Any Services for which times for performance are not specified in this Agreement or in the relevant Task Order 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 total compensation to be paid to CONSULTANT for performance of the Services, including As Required Services (per Section 1) and any reimbursable expenses, shall not exceed five hundred and fifty thousand dollars ($550,000) in partial Fiscal Year 2020-21, and seven hundred and fifty thousand dollars ($750,000) in Fiscal Year 2021-22, for a total contract amount not to exceed one million three hundred thousand dollars ($1,300,000), as detailed in Exhibit B (Compensation).

CONSULTANT agrees to complete all Services, including As Required Services and any reimbursable expenses, within this amount. The applicable rate schedule is set out at Exhibit “B-1”, entitled “SCHEDULE OF RATES,” 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.

SECTION 5. INVOICES. In order to request payment, CONSULTANT shall submit monthly invoices 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 B, the CONSULTANT’s schedule of rates (set forth in Exhibit B-1), and/or the relevant Task Order, as applicable. 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 the CITY’s Project Manager at the address specified in Section 13 below (Project Management), with a copy to CITY’s Accounts Payable Division, with payment subject to approval of the CITY’s Project Manager. The CITY will generally process and pay invoices within thirty (30) days of receipt.

SECTION 6. QUALIFICATIONS/STANDARD OF CARE. All of the services shall be performed by CONSULTANT or under CONSULTANT’s supervision. CONSULTANT represents that it possesses 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 subconsultants, if permitted, 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 of the 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. CONSULTANT shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

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

SECTION 9. COST ESTIMATES. If this Agreement pertains to the design of a public works project, CONSULTANT shall submit estimates of probable construction costs at each phase of design submittal. If the total estimated construction cost at any submittal exceeds the CITY’s stated construction budget by ten percent (10%) or more, CONSULTANT shall make recommendations to CITY for aligning the PROJECT design with the budget, incorporate CITY approved recommendations, and revise the design to meet the Project budget, at no additional cost to CITY.
SECTION 10. INDEPENDENT CONTRACTOR. CONSULTANT acknowledges and agrees that CONSULTANT and any agent or employee of CONSULTANT will act as and shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which CONSULTANT performs the Services requested by CITY under this Agreement. CONSULTANT and any agent or employee of CONSULTANT will not have employee status with CITY, nor be entitled to participate in any plans, arrangements, or distributions by CITY pertaining to or in connection with any retirement, health or other benefits that CITY may offer its employees. CONSULTANT will be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, workers’ compensation, unemployment compensation, insurance, and other similar responsibilities related to CONSULTANT’s performance of the Services, or any agent or employee of CONSULTANT providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between CITY and CONSULTANT or any agent or employee of CONSULTANT. Any terms in this Agreement referring to direction from CITY shall be construed as providing for direction as to policy and the result of CONSULTANT's provision of the Services only, and not as to the means by which such a result is obtained. CONSULTANT agrees to maintain and make available to CITY, upon request and during regular business hours, accurate books and accounting records demonstrating CONSULTANT’s compliance with this Section.

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 consent of the City Council. Consent to one assignment will not be deemed to be consent to any subsequent assignment. Any assignment made without the approval of the city manager will be void.

SECTION 12. SUBCONTRACTING.

CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of the CITY.

Upon prior written authorization by CITY via Task Order, CONSULTANT shall be responsible for directing the work of any subconsultants and for any compensation due to subconsultants. CITY assumes no responsibility whatsoever concerning compensation. CONSULTANT shall be fully responsible to CITY for all acts and omissions of a subconsultant. CONSULTANT shall change or add subconsultants only with the prior approval of the CITY via Task Order.

SECTION 13. PROJECT MANAGEMENT. CONSULTANT will assign Jodi Dobson as the Project Manager to have supervisory responsibility for the performance, progress, and execution of the Services and Kyle O’Rourke as the designated City Auditor to represent CONSULTANT during the day-to-day work on the Project. If circumstances cause the substitution of the Project Manager, designated City Auditor, or any other key personnel for any reason, the appointment of a substitute beyond a period of 90 days will be subject to the prior written approval of the CITY’s Project Manager. Further, the City Council will interview and approve by resolution the appointment of any substitute City Auditor as specified here and in Exhibit A (Scope of Services). CONSULTANT, at CITY’s request, shall promptly remove 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 Project or a threat to the safety of persons or property.

CITY’s Project Manager is the Chair of the City Council’s Policy and Services Committee, or other City Council designee as identified to CONSULTANT in writing. The CITY’s Project Manager will be CONSULTANT’s point of contact with respect to performance, progress and execution of the Services under this Agreement. City Council may designate an alternate CITY Project Manager upon approval of the Annual Audit Plan described in Exhibit A (Scope of Services), approval of City Council appointments, or at any other time it is so acted upon by City Council.

SECTION 14. OWNERSHIP OF MATERIALS. CITY shall retain all title to CITY’s documents, data and other materials that are provided to CONSULTANT, including all copies thereof, and all rights to patents, copyrights, trademarks, trade secrets and other intellectual property rights inherent in such CITY materials. CITY hereby grants to CONSULTANT a limited, non-exclusive, non-transferable license to use such CITY materials in the performance of this Agreement and for CONSULTANT’s internal quality assurance purposes to meet its professional standards per the American Institute of Certified Public Accountants (AICPA), Consulting Standards and for no other purpose. Pursuant to this Agreement, CONSULTANT will provide CITY with the deliverables (“Deliverables”) detailed in Exhibit A (Scope of Services) and/or any approved Task Order, as applicable. Deliverables provided by the CONSULTANT shall become the property of the City. CITY hereby grants to CONSULTANT a limited, non-exclusive, non-transferable license to use such Deliverables for CONSULTANT’s internal quality assurance purposes to meet its professional standards per the AICPA, Consulting Standards, and for no other purpose without the prior written consent of the City Manager. All programs, working papers, files, and other materials used or made by the CONSULTANT pursuant to this Agreement in researching and preparing any Deliverable to be provided to the CITY hereunder shall remain the property of the CONSULTANT (except as otherwise provided for in this Section). The City will have access to such materials upon request. The CONSULTANT shall comply with the confidentiality provisions of this Agreement and shall not disclose to any third party the contents of such programs, working papers, files, or any other materials or Deliverables without prior written approval of the City Manager.

SECTION 15. AUDITS. CONSULTANT will permit CITY to audit, at any reasonable time during the term of this Agreement and for three (3) years thereafter, CONSULTANT’s records pertaining to matters covered by this Agreement. CONSULTANT further agrees to maintain and retain such records for at least three (3) years after the expiration or earlier termination of this Agreement.

SECTION 16. INDEMNITY.

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”) resulting from, arising out of or in any manner related 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.

16.2. Notwithstanding the above, nothing in this Section 16 shall be construed to require CONSULTANT to indemnify an Indemnified Party from Claims arising from the active negligence, sole negligence or willful misconduct of an Indemnified Party.

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 16.A. LIMITATION OF LIABILITY.

16.A.1. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CONSULTANT BE LIABLE TO CITY, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES OR FOR ANY LOSS OF PROFIT OR LOSS OF BUSINESS BY CITY, EVEN IF CONSULTANT HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH POTENTIAL CLAIM, LOSS OR DAMAGE. EXCEPT AS PROVIDED IN THE IMMEDIATELY FOLLOWING SENTENCE, IN NO EVENT SHALL THE TOTAL AGGREGATE LIABILITY UNDER THIS AGREEMENT OF CONSULTANT TO CITY EXCEED THE DOLLAR AMOUNT PROVIDED FOR IN SECTION 4 (“NOT TO EXCEED COMPENSATION”) OF THIS AGREEMENT. CONSULTANT’S LIABILITY LIMIT SET FORTH HEREIN SHALL NOT APPLY TO (1) DAMAGES CAUSED BY CONSULTANT’S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (2) CONSULTANT’S OBLIGATIONS TO INDEMNIFY AND DEFEND CITY PURSUANT TO SECTION 16 (“INDEMNIFICATION”) OF THIS AGREEMENT, (3) LIMIT CLAIMS OR GENERAL DAMAGES THAT FALL WITHIN THE INSURANCE COVERAGE OF THIS AGREEMENT, (4) STATUTORY DAMAGES, AND (5) WRONGFUL DEATH CAUSED BY CONSULTANT.

16.A.2. CITY’S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 4 (“NOT TO EXCEED COMPENSATION”) OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

SECTION 17. WAIVERS. The waiver by either party of any breach or violation of any covenant, term, condition or provision of this Agreement, or of the provisions of any ordinance or law, will not be deemed to be a waiver of any other term, covenant, condition, provisions, ordinance or law, or of any subsequent breach or violation of the same or of any other term, covenant, condition, provision, ordinance or law.

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". 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. CONSULTANT shall provide the Purchasing Manager with thirty (30) days’ prior written notice of any 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 promptly following 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 in accordance with the terms of Sections 16 and 16.A of this Agreement.

SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

19.1. The CITY 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. Upon receipt of such notice, CONSULTANT will immediately discontinue its performance of the Services.

19.2. CONSULTANT may terminate this Agreement or suspend its performance of the Services by giving thirty (30) days prior written notice thereof to CITY, but only in the event of a substantial failure of performance by CITY.

19.3. In the event of such suspension or termination, CONSULTANT will deliver to the CITY’s Project Manager on or before the effective date in the notice of suspension or termination, any and all Deliverables, 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 Deliverables are the property of CITY, as detailed in Section 14 (Ownership of Materials).

19.4. Upon such suspension or termination by CITY, CONSULTANT will be
paid for the Services rendered or materials delivered to CITY in accordance with the scope of services on or before 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 which are of direct and immediate benefit to CITY as such determination may be 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, 16.A, 19.4, 20, 25 and 27.

19.5. 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.

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 and Project Manager

To CONSULTANT:  
Attention of the project director  
at the address of CONSULTANT recited above

SECTION 21. CONFLICT OF INTEREST.

21.1. In accepting 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 subconsultants, contractors or persons 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.

21.3. If the Project Manager determines that CONSULTANT is a “Consultant” as that term is defined by the Regulations of the Fair Political Practices Commission, CONSULTANT shall be required and agrees to file the appropriate financial disclosure documents required by the Palo Alto Municipal Code and the Political Reform Act.

SECTION 22. NONDISCRIMINATION. As set forth in Palo Alto Municipal Code section 2.30.510, 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.

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, incorporated by reference and may be 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 Division’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 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, 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

25.1. 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.

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

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

SECTION 27. MISCELLANEOUS PROVISIONS.

27.1. This Agreement will be governed by the laws of the State of California without regard to conflict of law provisions.

27.2. 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.

27.3. 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.

27.4. This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and contracts, either written or oral. This Agreement may be amended only by a written instrument, which is signed by the parties and approved as required under the Palo Alto Municipal Code.

27.5. The covenants, terms, conditions and provisions of this Agreement will apply to, and will bind, the heirs, successors, executors, administrators, assignees, and consultants of the parties.

27.6. 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.

27.7. All exhibits, addenda, appendices, attachments, and schedules to this Agreement (collectively, “exhibits”) which are referred to herein are by such reference incorporated in this Agreement and deemed part of this Agreement.

27.8 In the event of a conflict between the terms of this Agreement and the exhibits hereto or CONSULTANT’s proposal (if any), the Agreement shall control. In the case of any conflict between the exhibits hereto and CONSULTANT’s proposal, the exhibits shall control.
27.9 If, pursuant to this contract with CONSULTANT, CITY shares with CONSULTANT personal information as defined in California Civil Code section 1798.81.5(d) about a California resident (“Personal Information”), CONSULTANT shall maintain reasonable and appropriate security procedures to protect that Personal Information, and shall inform City promptly following discovery that there has been a breach in the security of the system impacting or potentially impacting Personal Information, or in the security of the Personal Information, in CONSULTANT’S custody or control. CONSULTANT shall not use Personal Information for direct marketing purposes without City’s express written consent.

27.10 In the performance of the services, CONSULTANT may have access to CITY’s proprietary or confidential information, the disclosure of which to third parties may damage the CITY, its employees, customers or residents and/or may violate state and/or federal law. CONSULTANT will hold such information in confidence and use it only to perform this Agreement and for no other purpose. CONSULTANT shall exercise the same standard of care to protect such information as CONSULTANT uses to protect its own proprietary and/or confidential information and in no case less than a reasonable standard of care.

27.11 The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

27.12 This Agreement may be signed in multiple counterparts, which, when executed by the parties, shall together constitute a single binding agreement.
CONTRACT No. C21179340 SIGNATURE PAGE

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

Officer 1

By: Jodi Dobson
Name: Jodi Dobson
Title: Partner

BAKER TILLY US, LLP

Officer 2 (Required for Corp. or LLC)

By: Heather Acker
Name: Heather Acker
Title: Partner

APPROVED AS TO FORM:

Molly Stump
City Attorney or designee
(Required on Contracts over $25,000)

Attachments:

EXHIBIT “A”: SCOPE OF SERVICES
EXHIBIT “A-1”: PROFESSIONAL SERVICES TASK ORDER
EXHIBIT “B”: COMPENSATION
EXHIBIT “B-1”: SCHEDULE OF RATES
EXHIBIT “C”: INSURANCE REQUIREMENTS
FISCAL YEAR 2020/21 TASK ORDERS 1, 2, 3 AND 5
EXHIBIT “A”
SCOPE OF SERVICES

Background
In accordance with City Charter and Municipal Code requirements, the Palo Alto City Council must appoint a City Auditor who serves at the will of the Council, and who executes annual Council-approved internal audit plans through the Office of the City Auditor.

Mission of the Office of the City Auditor
The mission of the office of the city auditor is to promote honest, efficient, effective, economical, and fully accountable and transparent city government. This mission is fulfilled by conducting annual performance audits and financial/operational analyses of city departments, programs, services or activities.

These audits are intended to ensure that city management is using its financial, physical, and informational resources effectively, efficiently, economically, ethically, and equitably, and in compliance with laws, regulations, contract and grant requirements, and city policies and procedures.

Internal Auditor Scope of Services
This section contains the scope of internal audit services to be performed by CONSULTANT as required by the City Charter and Municipal Code, including the required duties of, and audit tasks performed by, the CONSULTANT’S City Auditor.

Service Requirements of the City Auditor
The City Auditor shall:

- Ensure that city departments and officers responsible for accounting and financial management activities comply with statutory requirements and accounting standards.
- Perform internal audits of all the fiscal transactions and operations of the City, in accordance with annual audit plans approved and directed by the City Council, that include:
  - Conducting performance audits of city departments, programs, services or activities,
  - Examination and analysis of fiscal procedures and expenditures,
  - Provision of other analyses of financial and operational data, and
  - Periodic unscheduled audits.

As Required Internal Audit Tasks
The following 6 tasks represent the core services to be provided by CONSULTANT. These As Required Services must be authorized by CITY’s representative through the approval of Task Orders prepared by CONSULTANT, in further accordance with Section 4 of this Agreement (Not To Exceed Compensation) and Exhibit A-1 thereto (Professional Services Task Order).
Task 1. Citywide Risk Assessment:

Beginning with year 1 and continuing at a minimum every other year thereafter, prepare a citywide risk assessment following the same review and approval requirements described in Task 2. The risk assessment process will be the primary determinant of subsequent audit activity.

Task 2. Preparation of Annual Audit Plan:

Prepare an annual audit plan for review by the City Manager and appropriate City Council committee(s), and approval by the City Council, that identifies preliminary objectives of each audit to be performed, the schedule for each audit, and the estimated not to exceed resources and costs for each audit. The City Auditor shall consult with the City Attorney as necessary when developing audit plans. The annual audit plan will be largely based on the risk assessment required in Task 1.

Task 3. Selection of External Financial Auditor and Annual Audit Coordination:

Coordinate the annual external financial audit in each year of the contract term.

Pursuant to the City Charter, the City Auditor shall oversee the selection process for the annual external financial auditor. The City anticipates conducting a Request for Proposals for this purpose in early 2021.

Task 4. Execute Annual Audit Plan:

Conduct a minimum number of internal audits in accordance with each approved annual audit plan based on the risk assessments. Each internal audit will commence only upon the City’s approval of a Task Order (which may be at the task or sub-task level) as required by this Agreement. Each internal audit requires the preparation of a written report for review by the City Manager, City Attorney and appropriate Council committee, and review/approval by the City Council as required.

Task 5. Preparation of Quarterly Reports, Annual Status Report, Provision of City Hotline, and Other Ongoing Office Administrative Functions:

Prepare and issue quarterly reports describing the status and progress toward audit completion, to be provided as information reports to the City Council and reviewed by the appropriate committee, unless other reporting methods are directed by Council.

Prepare and issue an annual report in the first quarter of each fiscal year on the status of recommendations made in completed audits, to be provided as an information report to the City Council and reviewed by the appropriate committee, unless other reporting methods are directed by Council.

Maintain and respond to the City’s employee “hotline” function provided through voicemail, email or written submissions. Coordinate referrals as appropriate to other City offices, departments or divisions and incorporate relevant referrals into future risk assessments, audit plans or audit activity as appropriate.
Task 6. Evaluation and Benchmarking

Undergo a peer evaluation following the guidelines of the Association of Local Government Auditors every two years (i.e., at the end of the initial contract term, then every other year thereafter throughout the contract term), or as required by the City Council, so that performance of the internal audit function can be objectively assessed.

Prepare a cost per audit analysis following the first completed fiscal year, to be submitted at the beginning of the second fiscal year and every year thereafter throughout the contract term, that includes benchmark agencies determined by the CITY, and obtain independent third-party certification of data accuracy.

The cost per audit analysis will be used to evaluate the cost effectiveness of services provided by the CONSULTANT. This evaluation will be incorporated into ongoing performance assessments as required and will help ensure that fees for service provision throughout the duration of the Agreement are objectively determined and mutually agreed upon.

Last, the City Council will perform periodic Closed Session performance evaluations with the designated City Auditor as allowed by law and performed with the other City Council appointees (the City Manager, City Attorney and City Clerk). The appointed City Auditor will have a 6-month evaluation, and then annually thereafter throughout the initial contract term and any extensions granted by the City Council.

Internal Auditor Services – Designation of City Auditor, Minimum Experience Requirements and Auditing Standards

Consistent with City Charter and Municipal Code provisions, the City Council must appoint a City Auditor who serves at the will of the Council, and who executes annual Council-approved internal audit plans through the Office of the City auditor.

Designation of City Auditor

The CONSULTANT has designated Kyle O’Rourke to fulfil the role of City Auditor, whose designation received City Council approval and appointment, and whose appointment is subject to at-will modification by the Council.

In accepting this appointment and its associated responsibilities and requirements, the CONSULTANT agrees to the following stipulations and reserved rights of the CITY in the event the City Auditor vacates the appointment for whatever reason:

- CONSULTANT must designate a temporary replacement not to exceed 3 months if the City Auditor vacates the appointment without enough time for Council to appoint a replacement.
- Any subsequent appointment of a City Auditor be conducted in the manner specified by the City Council, subject to applicable laws.
- Continued appointment of the City Auditor is based on and subject to acceptable performance.
During the term of this Agreement, CONSULTANT may propose an alternative City Auditor for Council consideration should it become necessary to do so.

**Minimum Experience Requirements**

The CONSULTANT and City Auditor must have at least 5 years of experience performing internal audit services to local, state, federal or quasi-public entities, with a focus on performance auditing.

**Auditing Standards**

The appointed City Auditor must be a Certified Public Accountant (CPA) or Certified Internal Auditor (CIA) in good standing and must maintain such certification at all time during the term of the Agreement.

All staff members of CONSULTANT assigned to internal auditor services under this Agreement must be able to conduct or assist in conducting internal audits in accordance with Government Accounting Standards, as established by the Comptroller General of the United States, Governmental Accountability Office.

**Maintenance of Independent Contractor Status**

Proposers must maintain independent contractor status at all times during the Agreement term.

**Best Value Service Provision**

The City Council has awarded this contract to the CONSULTANT based on its ability to deliver cost effective and efficient internal auditor services that represent the best possible value in exchange for public funds. Continued service provision is dependent on a number of evaluative factors to help determine that the CITY receives the best possible value for internal audit services during the term of this Agreement. These include, but are not limited to, acceptable pricing; cost effective and service provision provided by the City Auditor and CONSULTANT; and favorable City Auditor performance evaluations.

Additionally, budget constraints and economic conditions are factors that shall be considered in determining acceptable pricing and funding.
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 below are incorporated into this Task Order by this reference. The Consultant shall furnish the necessary facilities, professional, technical and supporting personnel required by this Task Order as described below.

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:            APPROVED:
CITY OF PALO ALTO                COMPANY NAME: _____________________________

BY:__________________________            BY:___________________________
Name __________________________            Name __________________________
Title __________________________            Title __________________________
Date __________________________            Date __________________________
EXHIBIT “B”
COMPENSATION

The CITY agrees to compensate the CONSULTANT for the Services (including As Required 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 B-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 Services, including As Required Services and any reimbursable expenses do not exceed the amounts set forth in Section 4 of this Agreement.

<table>
<thead>
<tr>
<th>Budget Schedule</th>
<th>FY 2020-21</th>
<th>FY 2021-22</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1: Citywide Risk Assessment</td>
<td>$65,000.00</td>
<td>$25,000.00</td>
<td>$90,000.00</td>
</tr>
<tr>
<td>Task 2: Preparation of Annual Audit Plan</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>Task 3: Selection of External Financial Auditor and Annual Audit Coordination</td>
<td>$30,000.00</td>
<td>$20,000.00</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>Task 4: Execute Annual Audit Plan</td>
<td>$390,000.00</td>
<td>$600,000.00</td>
<td>$990,000.00</td>
</tr>
<tr>
<td>Task 5: Preparation of Quarterly Reports, Annual Status Report, Provision of City Hotline, and Other Ongoing Office Administrative Functions</td>
<td>$50,000.00</td>
<td>$50,000.00</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>Task 6: Evaluation and Benchmarking</td>
<td>$0.00</td>
<td>$40,000.00</td>
<td>$40,000.00</td>
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<tr>
<td>Totals</td>
<td>$550,000.00</td>
<td>$750,000.00</td>
<td>$1,300,000.00</td>
</tr>
</tbody>
</table>

REIMBURSABLE EXPENSES

The administrative, overhead, secretarial time or secretarial overtime, word processing, photocopying, in-house printing, computing, telecommunications, 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:
Travel to or from the San Francisco Bay area, including transportation and meals, will be reimbursed at actual cost. Any and all such reimbursable expenses shall be identified by CONSULTANT as separate line items on the applicable Task Order. Consultant travel and meal expenses are not subject to the City’s Travel Policy. CONSULTANT shall identify a fixed “not to exceed” figure for anticipated reimbursable expenses, subject to the City of Palo Alto’s approval of such Task Order.

Should CONSULTANT’S actual incurred expenses exceed the “not to exceed” figure, CONSULTANT and the CITY shall meet in good faith to determine the extent to which CONSULTANT shall be reimbursed by the CITY for the excess.

All requests for payment of expenses exceeding $25.00 shall be accompanied by appropriate backup documentation and information, including without limitation prior City approval as part of the associated Task Order.
EXHIBIT “B-1”
SCHEDULE OF RATES

Compensation for services rendered under this Agreement shall be calculated based on the following hourly rate schedule, which shall remain fixed during the term of the Agreement.

Hourly rates for any subsequent renewal term or terms shall be negotiated to the mutual agreement of the parties.

<table>
<thead>
<tr>
<th>Staff level</th>
<th>Hourly rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partner/Director</td>
<td>$345</td>
</tr>
<tr>
<td>City Auditor/Senior Manager</td>
<td>$245</td>
</tr>
<tr>
<td>Manager</td>
<td>$210</td>
</tr>
<tr>
<td>Senior Consultant</td>
<td>$185</td>
</tr>
<tr>
<td>Consultant</td>
<td>$130</td>
</tr>
</tbody>
</table>
EXHIBIT “C”
INSURANCE REQUIREMENTS

CONTRACTORS TO THE CITY OF PALO ALTO (CITY), AT THEIR SOLE EXPENSE, SHALL FOR THE TERM OF THE CONTRACT OBTAIN AND MAINTAIN INSURANCE IN THE AMOUNTS FOR THE COVERAGE SPECIFIED BELOW, AFFORDED BY COMPANIES WITH AM BEST’S KEY RATING OF A-:VII, OR HIGHER, LICENSED OR AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN THE STATE OF CALIFORNIA.

AWARD IS CONTINGENT ON COMPLIANCE WITH CITY’S INSURANCE REQUIREMENTS, AS SPECIFIED, BELOW:

<table>
<thead>
<tr>
<th>REQUIRED</th>
<th>TYPE OF COVERAGE</th>
<th>REQUIREMENT</th>
<th>MINIMUM LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
<td>WORKER’S COMPENSATION</td>
<td>STATUTORY</td>
<td>EACH OCCURRENCE</td>
</tr>
<tr>
<td>YES</td>
<td>EMPLOYER’S LIABILITY</td>
<td></td>
<td></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 - EACH PERSON</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>BODILY INJURY - 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>
<tr>
<td>YES</td>
<td>THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED: CONTRACTOR, AT ITS SOLE COST AND EXPENSE, SHALL OBTAIN AND MAINTAIN, IN FULL FORCE AND EFFECT THROUGHOUT THE ENTIRE TERM OF ANY RESULTANT AGREEMENT, THE INSURANCE COVERAGE HEREDIN DESCRIBED, INSURING NOT ONLY CONTRACTOR AND ITS SUBCONSULTANTS, IF ANY, BUT ALSO, WITH THE EXCEPTION OF WORKERS’ COMPENSATION, EMPLOYER’S LIABILITY AND PROFESSIONAL INSURANCE, NAMING AS ADDITIONAL INSURED: CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I. INSURANCE COVERAGE MUST INCLUDE:

A. A CONTRACTUAL LIABILITY ENDORSEMENT PROVIDING INSURANCE COVERAGE FOR CONTRACTOR’S AGREEMENT TO INDEMNIFY CITY.

II. CONTRACTOR MUST SUBMIT CERTIFICATES(S) OF INSURANCE EVIDENCING REQUIRED COVERAGE AT THE FOLLOWING URL: https://www.planetbids.com/portal/portal.cfm?CompanyID=25569.

III. ENDORSEMENT PROVISIONS, WITH RESPECT TO THE INSURANCE AFFORDED TO “ADDITIONAL INSURED”

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 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.

VENDORS ARE REQUIRED TO FILE THEIR EVIDENCE OF INSURANCE AND ANY OTHER RELATED NOTICES WITH THE CITY OF PALO ALTO AT THE FOLLOWING URL:

HTTPS://WWW.PLANETBIDS.COM/PORTAL/PORTAL.CFM?COMPANYID=25569

OR

HTTP://WWW.CITYOFPALOALTO.ORG/GOV/DEPTS/ASD/PLANET_BIDS_HOW_TO.ASP
PROFESSIONAL SERVICES TASK ORDER

TASK ORDER 1 – FY21

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

CONTRACT NO. C21179340
OR PURCHASE ORDER REQUISITION NO. (AS APPLICABLE)

1A. MASTER AGREEMENT NO. (MAY BE SAME AS CONTRACT / P.O. NO. ABOVE):
1B. TASK ORDER NO.: FY21-001
2. CONSULTANT NAME: Baker Tilly US, LLP
3. PERIOD OF PERFORMANCE: START: October 1, 2020  COMPLETION: January 15, 2021
4. TOTAL TASK ORDER PRICE: $65,000
   BALANCE REMAINING IN MASTER AGREEMENT/CONTRACT $1,235,000
5. BUDGET CODE __________
   COST CENTER __________
   COST ELEMENT __________
   WBS/CIP __________
   PHASE __________
6. CITY PROJECT MANAGER’S NAME & DEPARTMENT:
   Alison Cormack, Chair of the City Council’s Policy and Services Committee
7. DESCRIPTION OF SCOPE OF SERVICES (Attachment A)
   MUST INCLUDE:
   ▪ SERVICES AND DELIVERABLES TO BE PROVIDED
   ▪ SCHEDULE OF PERFORMANCE
   ▪ MAXIMUM COMPENSATION AMOUNT AND RATE SCHEDULE (as applicable)
   ▪ REIMBURSABLE EXPENSES, if any (with “not to exceed” amount)
8. ATTACHMENTS:  A: Task Order Scope of Services  B (if any): N/A

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

APPROVED:
CITY OF PALO ALTO
BY:__________________________
Name ______________
Title ______________
Date ______________

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

APPROVED:
COMPANY NAME: Baker Tilly US, LLP
BY:__________________________
Name ______________
Title ______________
Date ______________
Attachment A

DESCRIPTION OF SCOPE OF SERVICES

Introduction

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

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

Services & Deliverables

Baker Tilly’s approach to conducting the Citywide Risk Assessment involves four (4) primary steps:

- Step 1: Project Planning & Management
- Step 2: Information Gathering
- Step 3: Analysis
- Step 4: Reporting

Step 1 – Project Planning & Management

This step includes those tasks necessary to solidify mutual understanding of the risk assessment scope, objectives, deliverables, and timing as well as ensuring that appropriate client and consultant resources are available and well-coordinated. Tasks include:

- Finalize project design – The first project activities will be to:
  - Identify communication channels and reporting relationships and responsibilities of project staff
  - Review and confirm project timelines
  - Review and confirm deliverables
- Arrange logistics/administrative support – Matters to be addressed include schedules for interviews and data collection, contact persons in the departments, any other logistical matters, etc.
- Conduct kick-off meeting with key project stakeholders

Step 2 – Information Gathering

This step involves gathering information, through various means, that will enable the project team to understand the various risks facing the City. Tasks include:

- Request and review background information – the project team will develop an information request(s) in order to obtain various background information from the City. The request will include, but not be limited to:
o Strategic plan(s)
o Financial reports, including the most recent City Budget and Comprehensive Annual Financial Report (CAFR)
o Operational policies and procedures
o Municipal code
o Consulting reports
o Other relevant information and reports

- Conduct interviews with City Council and management
  o Risk assessment interviews, aimed at understanding City functions and identifying risks, will be conducted with City Council members as well as department and division
- Conduct research into key risks in order to identify relevant information to assess risks

Overall, the project team will consider the following risk types:
- Strategic
- Financial
- Operational
- Technology
- Compliance
- Reputational
- Political

Step 3 – Risk Analysis
In Step 3, the project team will develop a risk matrix consisting of auditable areas (also referred to as an audit or risk universe). The risk matrix will include the following risk categories:
- Environment, Strategy, and Governance – risks that have an organization wide impact and are not subject to a specific department or function (e.g., ethics)
- Significant Projects and Initiatives – risks associated with large projects (e.g., capital projects, technology implementation) or City initiatives (e.g., employee engagement initiative).
- Function Specific Risks – risks associated with a specific department or function (e.g., procurement policy compliance)

After assembling a risk matrix, the project team will assess the likelihood and impact of potential adverse events in order to quantitatively score each auditable area for purposes of prioritizing audit activities.

Step 4 – Reporting
In Step 4, the project team will finalize the draft Risk Matrix and prepare a draft Risk Assessment Report. The project team will ask for input (general completeness, risk scoring) on the Risk Matrix from key project stakeholders. Upon finalization of the Risk Matrix, the project team will finalize the Risk Assessment Report.
Deliverables:
The following deliverables will be prepared as part of this engagement:

- Risk Matrix
- Risk Assessment Report
- Presentation of Results to City Council (note that this may be combined with presentation of the Task 2 Annual Audit Plan)

Schedule of Performance

Anticipated Start Date: October 1, 2020
Anticipated End Date: January 15, 2021

Maximum Compensation Amount and Rate Schedule
The not-to-exceed maximum, inclusive of reimbursable expenses (as summarized below) for this Task is $65,000. The not-to-exceed budget is based on an estimate of 320 total project hours, of which 80 are estimated to be completed by the City Auditor.

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

The not-to-exceed maximum for reimbursable expenses for this Task is $1,800.

The following summarizes anticipated reimbursable expenses:

- Round-trip Airfare – $400
- Rental Car - $400
- Hotel accommodation - $700 (3 nights)
- Food and incidentals – $300

Note that, if current restrictions associated with COVID-19 continue, an on-site visit may not be possible. The project team will work with the City to consider circumstances at the time.
PROFESSIONAL SERVICES TASK ORDER

TASK ORDER 2 – FY21

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

CONTRACT NO. C21179340
OR PURCHASE ORDER REQUISITION NO. (AS APPLICABLE)

1A. MASTER AGREEMENT NO. (MAY BE SAME AS CONTRACT / P.O. NO. ABOVE):
1B. TASK ORDER NO.: FY21-002
2. CONSULTANT NAME: Baker Tilly US, LLP
3. PERIOD OF PERFORMANCE: START: October 1, 2020 COMPLETION: January 15, 2021
4. TOTAL TASK ORDER PRICE: $15,000
   BALANCE REMAINING IN MASTER AGREEMENT/CONTRACT $1,220,000
5. BUDGET CODE
   COST CENTER
   COST ELEMENT
   WBS/CIP
   PHASE

6. CITY PROJECT MANAGER’S NAME & DEPARTMENT:
   Alison Cormack, Chair of the City Council’s Policy and Services Committee

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

8. ATTACHMENTS: A: Task Order Scope of Services  B (if any): N/A

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

APPROVED:
CITY OF PALO ALTO
BY: [Signature]
Name: Alison Cormack
Title: Chair, Policy and Services
Date: 10/8/2020

APPROVED:
COMPANY NAME: Baker Tilly US, LLP
BY: [Signature]
Name: Jodi Dobson
Title: Partner
Date: 10/1/2020

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

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

APPROVED:
CITY OF PALO ALTO
BY: [Signature]
Name: Alison Cormack
Title: Chair, Policy and Services
Date: 10/8/2020

APPROVED:
COMPANY NAME: Baker Tilly US, LLP
BY: [Signature]
Name: Jodi Dobson
Title: Partner
Date: 10/1/2020
Attachment A
DESCRIPTION OF SCOPE OF SERVICES

Introduction

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

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

Services & Deliverables

Baker Tilly’s approach to preparing the Annual Audit Plan involves two (2) primary steps:

- Step 1: Consultation with City Council and Management
- Step 2: Reporting

Step 1 – Consultation with City Council and Management

The Risk Matrix and Risk Assessment Report will serve as the primary drivers of the Annual Audit Plan. The project team will initiate discussions over Risk Assessment results, potential audit activities, and audit coverage with City Council and Management. The purpose of those conversations will be to understand the priorities of City Council, and to develop a Draft Annual Audit Plan.

The Draft Annual Audit Plan will identify the following components for each audit activity:
- Audit activity type – audit or consulting activity
- Audit objectives and scope
- Anticipated budget – both in terms of hours and budget
- Anticipated timeline

Step 2 – Reporting

The project team will present the Draft Annual Audit Plan to the City Council in order to obtain input on each potential audit activity. Upon refining the plan, the project team will finalize the Annual Audit Plan for presentation to City Council.

Deliverables:

The following deliverable will be prepared as part of this engagement:

- Annual Audit Plan
Schedule of Performance

Anticipated Start Date: October 1, 2020
Anticipated End Date: January 15, 2021

Maximum Compensation Amount and Rate Schedule
The not-to-exceed maximum, inclusive of reimbursable expenses (as summarized below) for this Task is $15,000. The not-to-exceed budget is based on an estimate of 60 total project hours, of which 20 are estimated to be completed by the City Auditor.

Reimbursable Expenses
Baker Tilly does not anticipate incurring reimbursable expenses for this Task.
PROFESSIONAL SERVICES TASK ORDER

TASK ORDER 3 – FY21

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

CONTRACT NO. C21179340
OR PURCHASE ORDER REQUISITION NO. (AS APPLICABLE)

1A. MASTER AGREEMENT NO. (MAY BE SAME AS CONTRACT / P.O. NO. ABOVE):
1B. TASK ORDER NO.: FY21-003
2. CONSULTANT NAME: Baker Tilly US, LLP
3. PERIOD OF PERFORMANCE: START: October 1, 2020 COMPLETION: June 30, 2021
4. TOTAL TASK ORDER PRICE: $30,000
BALANCE REMAINING IN MASTER AGREEMENT/CONTRACT $1,190,000
5. BUDGET CODE______________
COST CENTER________________
COST ELEMENT______________
WBS/CIP_________
PHASE_________
6. CITY PROJECT MANAGER’S NAME & DEPARTMENT:
   Alison Cormack, Chair of the City Council’s Policy and Services Committee
7. DESCRIPTION OF SCOPE OF SERVICES (Attachment A)
   MUST INCLUDE:
   ▪ SERVICES AND DELIVERABLES TO BE PROVIDED
   ▪ SCHEDULE OF PERFORMANCE
   ▪ MAXIMUM COMPENSATION AMOUNT AND RATE SCHEDULE (as applicable)
   ▪ REIMBURSABLE EXPENSES, if any (with “not to exceed” amount)
8. ATTACHMENTS: A: Task Order Scope of Services B (if any): N/A

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

APPROVED:
CITY OF PALO ALTO
BY:__________________________
Name: Alison Cormack
Title: Chair, Policy and Services
Date: 10/8/2020

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

APPROVED:
COMPANY NAME: Baker Tilly US, LLP
BY:__________________________
Name: Jodi Dobson
Title: Partner
Date: 10/1/2020
Attachment A
DESCRIPTION OF SCOPE OF SERVICES

Introduction

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

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

Services & Deliverables

Baker Tilly’s approach to preparing the Annual Audit Plan involves one (1) primary step in FY21.

- Step 1: Selection of the Financial Auditor

Step 1 – Selection of the Financial Auditor
In FY20, the project team will assist in the selection of the Financial Auditor. In order to accomplish this task, the project team will:

- Meet with management to understand the nature of the existing agreement with the Financial Auditors
- Work with the Purchasing Department to develop a strategy for selection, including developing the solicitation, formulating the selection committee, evaluating proposals, finalizing selection, and developing a contract document
- Review the prior solicitation materials with the Purchasing Department, Administrative Services Department, and Legal Department to identify necessary updates and other considerations
- Assist the Purchasing Department in finalizing the solicitation materials
- Coordinate activities of the selection committee
- Coordinate contract review between the selected vendor and the Legal Department
- Periodically report on the status of the selection to the City Council
- Assist, as needed and required, in City Council presentations related to the selection

Deliverables:
The final deliverable associated with this Task consists of a final contract with the selected Financial Audit vendor.
Schedule of Performance

Anticipated Start Date: October 1, 2020
Anticipated End Date: June 30, 2021

Maximum Compensation Amount and Rate Schedule
The not-to-exceed maximum, inclusive of reimbursable expenses (as summarized below) for this Task is $30,000. The not-to-exceed budget is based on an estimate of 130 total project hours, of which 40 are estimated to be completed by the City Auditor.

Reimbursable Expenses
Baker Tilly anticipates incurring reimbursable expenses for this Task. The expenses will be incurred to attend the City Council meeting for final selection of the Financial Auditor.

The not-to-exceed maximum for reimbursable expenses for this Task is $1,300.

The following summarizes anticipated reimbursable expenses:
- Round-trip Airfare – $400
- Rental Car - $250
- Hotel accommodation - $450 (2 nights)
- Food and incidentals – $200

Note that, if current restrictions associated with COVID-19 continue, the final presentation may take place virtually. The project team will work with the City to consider circumstances at the time.
PROFESSIONAL SERVICES TASK ORDER

TASK ORDER 5 – FY21

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

CONTRACT NO. C21179340
OR PURCHASE ORDER REQUISITION NO. (AS APPLICABLE)

1A. MASTER AGREEMENT NO. (MAY BE SAME AS CONTRACT / P.O. NO. ABOVE):
1B. TASK ORDER NO.: FY21-005
2. CONSULTANT NAME: Baker Tilly US, LLP
3. PERIOD OF PERFORMANCE: START: October 1, 2020 COMPLETION: June 30, 2021
4. TOTAL TASK ORDER PRICE: $50,000
5. BUDGET CODE
   COST CENTER
   COST ELEMENT
   WBS/CIP
   PHASE
8. ATTACHMENTS: A: Task Order Scope of Services B (if any): N/A

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

APPROVED:
CITY OF PALO ALTO
BY: [Signature]
Name: Alison Cormack
Title: Chair, Policy and Services
Date: 10/8/2020

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

APPROVED:
COMPANY NAME: Baker Tilly US, LLP
BY: [Signature]
Name: Jodi Dobson
Title: Partner
Date: 10/1/2020
Attachment A
DESCRIPTION OF SCOPE OF SERVICES

Introduction

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

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

Services & Deliverables

Baker Tilly will provide the following services in Task 5:

- Quarterly Reports
- Annual Status Report
- Provision of the City Hotline
- Office Administrative Functions

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

- Quarterly Reports (2 in FY21)
- Annual Status Report

Schedule of Performance

Anticipated Start Date: October 1, 2020
Anticipated End Date: June 30, 2021

Maximum Compensation Amount and Rate Schedule

The not-to-exceed maximum, inclusive of reimbursable expenses (as summarized below) for this Task is $50,000. The not-to-exceed budget is based on an estimate of 250 total project hours, of which 80 are estimated to be completed by the City Auditor.

Reimbursable Expenses

Baker Tilly anticipates incurring reimbursable expenses for this Task. The expenses will be incurred to present Quarterly Reports to City Council.
The not-to-exceed maximum for reimbursable expenses for this Task is $2,800.

The following summarizes anticipated reimbursable expenses:
- Round-trip Airfare – $900
- Rental Car – $500
- Hotel accommodation - $900 (4 nights)
- Food and incidentals – $500

Note that, if current restrictions associated with COVID-19 continue, the final presentation may take place virtually. The project team will work with the City to consider circumstances at the time.
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Palo Alto, CA  94301  
Terry.Loo@CityofPaloAlto.org  
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Heather.Acker@bakertilly.com  
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**Signature Adoption:** Pre-selected Style  
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AMENDMENT NO. 1 TO CONTRACT NO. C21179340  
BETWEEN THE CITY OF PALO ALTO AND  
BAKER TILLY US, LLP

This Amendment No. 1 (this “Amendment”) to Contract No. C21179340 (the “Contract” as defined below) is entered into as of April 18, 2022, by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and BAKER TILLY US, LLP, an Illinois Limited Liability Partnership, located at 205 Michigan Avenue, Suite 2800, Chicago, IL 60601 (“CONSULTANT”). CITY and CONSULTANT are referred to collectively as the “Parties” in this Amendment.

RECITALS

A. The Contract (as defined below) was entered into by and between the Parties hereto for the provision of performing internal auditor services in accordance with City Charter and Municipal Code requirements, as detailed therein.

B. The Parties now wish to amend the Contract in order to extend by an additional three years the Contract term in which Services will be provided and, therefore, increase compensation by Two Million One Hundred Twenty-Six Thousand Two Hundred and Fifty Dollars ($2,126,250), from an original not-to-exceed amount of One Million Three Hundred Thousand Dollars ($1,300,000) to a new total not-to-exceed amount of Three Million Four Hundred Twenty-Six Thousand Two Hundred and Fifty Dollars ($3,426,250), as detailed herein.

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and provisions of this Amendment, the Parties agree:

SECTION 1. Definitions. The following definitions shall apply to this Amendment:


b. Other Terms. Capitalized terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Contract.

SECTION 2. Section 2, “TERM,” of the Contract is hereby amended to read as follows:

“The term of this Agreement shall be from October 1, 2020 through June 30, 2025, unless terminated earlier pursuant to Section 19 of this Agreement.”
SECTION 3. Section 4, “COMPENSATION FOR ORIGINAL TERM,” of the Contract is hereby amended to read as follows:

“The total compensation to be paid to CONSULTANT for performance of the Services, including As Required Services (per Section 1) and any reimbursable expenses, shall not exceed Three Million Four Hundred Twenty-Six Thousand Two Hundred and Fifty dollars ($3,426,250), as detailed in Exhibit B (Compensation).

CONSULTANT agrees to complete all Services, including As Required Services and any reimbursable expenses, within this amount. The applicable rate schedule is set out at Exhibit “B-1”, entitled “SCHEDULE OF RATES,” 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.”

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

a. Exhibit “B” entitled “COMPENSATION”, AMENDED, REPLACES PREVIOUS.

b. Exhibit “B-1” entitled “SCHEDULE OF RATES”, AMENDED, REPLACES PREVIOUS.

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

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

(SIGNATURE BLOCK Follows on the NEXT PAGE.)
SIGNATURES OF THE PARTIES

IN WITNESS WHEREOF, the Parties have by their duly authorized representatives executed this Amendment effective as of the date first above written.

CITY OF PALO ALTO

______________________________
City Manager

APPROVED AS TO FORM:

______________________________
City Attorney or designee

BAKER TILLY US, LLP

Officer 1

By: _________________________

Name: Kyle O’Rourke

Title: Principal, Public Sector Advisory

Officer 2

By: _________________________

Name: Kate Crowley

Title: Principal

Attachments:
EXHIBIT B: COMPENSATION (AMENDED, REPLACES PREVIOUS)
EXHIBIT B-1: SCHEDULE OF RATES (AMENDED, REPLACES PREVIOUS)
EXHIBIT “B”
COMPENSATION
(AMENDED, REPLACES PREVIOUS)

The CITY agrees to compensate the CONSULTANT for the Services (including As Required 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 B-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 Services, including As Required Services and any reimbursable expenses do not exceed the amounts set forth in Section 4 of this Agreement.

BUDGET SCHEDULE FOR FY 2020-21 AND FY 2021-22

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## BUDGET SCHEDULE FOR FY 2022-23, FY 2023-24 AND FY 2024-25

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<td><strong>Subtotals (FY 2022-23, FY 2023-24 &amp; FY 2024-25)</strong></td>
<td><strong>$708,750.00</strong></td>
<td><strong>$708,750.00</strong></td>
<td><strong>$708,750.00</strong></td>
<td><strong>$2,126,250.00</strong></td>
</tr>
</tbody>
</table>

### TOTAL NOT TO EXCEED AMOUNT ACROSS ALL FISCAL YEARS:

- Budget Schedule FY 2020-21 and FY 2021-22 Subtotal: $1,300,000.00
- Budget Schedule FY 2022-23, FY 2023-24 and FY 2024-25 Subtotal: $2,126,250.00

### REIMBURSABLE EXPENSES

The administrative, overhead, secretarial time or secretarial overtime, word processing, photocopying, in-house printing, computing, telecommunications, 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:

Travel to or from the San Francisco Bay area, including transportation and meals, will be reimbursed at actual cost. Any and all such reimbursable expenses shall be identified by CONSULTANT as separate line items on the applicable Task Order. Consultant travel and meal expenses are not subject to the City’s Travel Policy. CONSULTANT shall identify a fixed “not to
exceed” figure for anticipated reimbursable expenses, subject to the City of Palo Alto’s approval of such Task Order.

Should CONSULTANT’S actual incurred expenses exceed the “not to exceed” figure, CONSULTANT and the CITY shall meet in good faith to determine the extent to which CONSULTANT shall be reimbursed by the CITY for the excess.

All requests for payment of expenses exceeding $25.00 shall be accompanied by appropriate backup documentation and information, including without limitation prior City approval as part of the associated Task Order.
Compensation for Services rendered under this Agreement shall be calculated based on the following hourly rate schedule for the fiscal year in which the Services are rendered, which shall remain fixed during the applicable period of fiscal years specified below.

Hourly rates for any subsequent renewal term or terms shall be negotiated to the mutual agreement of the parties.

**SCHEDULE OF RATES FOR FY 2020-21 AND FY 2021-22**

<table>
<thead>
<tr>
<th>Staff level</th>
<th>Hourly rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partner/Director</td>
<td>$345</td>
</tr>
<tr>
<td>City Auditor/Senior Manager</td>
<td>$245</td>
</tr>
<tr>
<td>Manager</td>
<td>$210</td>
</tr>
<tr>
<td>Senior Consultant</td>
<td>$185</td>
</tr>
<tr>
<td>Consultant</td>
<td>$130</td>
</tr>
</tbody>
</table>

**SCHEDULE OF RATES FOR FY 2022-23, FY 2023-24 AND FY 2024-25**

<table>
<thead>
<tr>
<th>Staff Level</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partner/Director</td>
<td>$362.00</td>
</tr>
<tr>
<td>City Auditor / Senior Manager</td>
<td>$257.00</td>
</tr>
<tr>
<td>Manager</td>
<td>$220.00</td>
</tr>
<tr>
<td>Senior Consultant</td>
<td>$194.00</td>
</tr>
<tr>
<td>Consultant</td>
<td>$136.00</td>
</tr>
</tbody>
</table>
Title: Approval of $900,000 Budget Amendment in the Refuse Fund for Fiscal Year 2022 for Collection, Hauling, and Disposal of Refuse for an Administrative Correction

From: City Manager

Lead Department: Public Works

Recommendation
Staff recommends that City Council amend the Fiscal Year 2022 Budget Appropriation for the Refuse Fund by (2/3 approval required):

1. Increasing contract funding for Collection/ Hauling/ Disposal Administration by $900,000; and
2. Decreasing the Ending Fund Balance by $900,000.

Background
GreenWaste of Palo Alto (GWPA) is the City’s refuse hauler for collecting recyclable, compostable, and landfill materials, and processing recyclable and compostable materials. On January 22, 2019, Council approved the Second Amended and Restated Agreement with GWPA (Staff Report #9752) and extended the agreement for five years to end in June 2026. Approximately 60% of the Refuse fund operating budget is annually appropriated for the GWPA contract to provide collection and processing services of discarded materials from the City.

Each fiscal year staff estimates the expenses needed for the contract year, conducts accrual and technical clean-up of expenses, and creates an adjustment to the budget in coordination with the Administrative Services Department’s Accounting division and Office of Management and Budget. This annual administrative action ensures that any excess carry forward amount from the contract encumbrance is returned to the fund balance to maintain a healthy reserve.

Discussion
As part of the annual review of projected expenses and carried forward budget, an administrative error occurred resulting in an overestimate of funds being transferred from the Fiscal Year 2022 operating budget to the Refuse Fund balance and accounted for in the ending balance for Fiscal Year 2021. As a result, the specific commitment item for Collection/ Hauling/ Disposal Administration in the operating budget is not sufficient to cover the full expenses projected for the GWPA contract in Fiscal Year 2022. Based on analysis using actual expenses
from July 2021 to March 2022, staff recommends a budget amendment to increase the Refuse Fund operating budget by $900,000. Table 1 summarizes the current budget compared to the projected GWPA expenses for the year. The budget amendment is necessary to cover all GWPA expenses and compensation for the rest of Fiscal Year 2022.

Table 1: Projected GWPA Expenses and Budget Comparison

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Budget</td>
<td>$19,260,668</td>
</tr>
<tr>
<td>Projected GWPA expenses</td>
<td>$20,157,000</td>
</tr>
<tr>
<td>for FY 2022</td>
<td></td>
</tr>
<tr>
<td>Difference</td>
<td>($896,332)</td>
</tr>
<tr>
<td>Recommended budget</td>
<td>$900,000</td>
</tr>
<tr>
<td>amendment amount</td>
<td></td>
</tr>
</tbody>
</table>

**Timeline**
The budget amendment is needed before the end of Fiscal Year 2022 to ensure all expenses to be incurred by GWPA can be compensated.

Under Section 12 of the City Charter, the proposed amendment must be approved by a two-thirds vote of the Council.

**Resource Impact**
A budget amendment in the Refuse Fund is recommended to cover the expenses under the GWPA Collection and Processing contract. Staff recommends an appropriation of $900,000 in the Fiscal Year 2022 Collection/Hauling/ Disposal Administration Operating budget of the Refuse Fund and an offset by a reduction of $900,000 in the Refuse Fund’s Rate Stabilization Reserve balance as indicated in Table 1.

**Policy Implications**
Authorization of this budget amendment does not represent a change to existing policies.

**Stakeholder Engagement**
This is an internal budget action; stakeholder engagement has been limited to internal departments including Public Works, Administrative Services, and Office of Management and Budget.

**Environmental Review**
Council action on this item is not a project as defined in section 15378(b)(4) of the CEQA Guidelines because a budget amendment is a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.
Summary Title: Council Review of Changes to Height Transitions

Title: Second Reading of an Ordinance Clarifying Ambiguities in Height Transitions, Adding RMD to the list of Residential Districts and Amending the Setback for the RM-40 Zone District

From: City Manager

Lead Department: Planning and Development Services

Recommendation:
Staff recommends that Council adopt an ordinance (Attachment A) on second reading amending height transitions and other development standards.

Background
The issue of height transition development standards is related to the objective standards project but focuses narrowly on development standards tables within district regulations in Title 18. Additionally, the draft ordinance adds the RMD (Two Unit Multiple-Family Residential District) to the list of Residential Zones in title 18.08 and to the PC list of zoning districts where a reduced height is required. Lastly, this report proposes changes to the RM-40 front and side setbacks to be consistent with all RM zones and to transform the subjective variable setbacks to objective standards.

The only changes to the ordinance since first reading are corrections to proposed code language in the PC district chapter and retention of an existing footnote in the RM district chapter, as directed by the City Council motion upon first reading.

This draft ordinance is the first of two ordinances staff is presenting to City Council this year as part of the objective standards project. A near-future second ordinance will address all other aspects of the objective standards project, based on feedback received from the Council on October 4 and November 8, 2021.
Further background information and records from previous meetings can be found on the project webpage: bit.ly/ObjectiveStandards

Discussion and Analysis:
At its April 11, 2022 meeting, the City Council on a 6-1 vote, approved the following motion:

A. Approve the proposed changes to the height transitions and other development standards as included in the staff report and At Places memo as follows:

Section 9 – PC District (18.38.150):
• Keep “Sites abutting or having....”
• Change “...R-1, R-2, RMD, RM-20...” to “...R-1, R-2, RMD, RM...”
• Remove “Abutting” where added

B. Reinsert to Section 18.13.040 Development Standards, as listed in Table 2 Footnote 12 “...and the context-based criteria outlined in Section 18.13.160.”

These changes have been made to the ordinance in Attachment A. No other changes are proposed.

Attachments:
Attachment9.a: Ordinance Amending Title 18 to Clarify Transitional Height Standards and Update Setbacks for RM-40 (PDF)
Ordinance No. ____

Ordinance of the Council of the City of Palo Alto Amending Various Chapters of Title 18 (Zoning) to Clarify Transitional Height Standards and Update Setbacks for the RM-40 Zone District

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations.

A. Title 18 (Zoning) of the Palo Alto Municipal Code contains development standards governing the maximum height of structures in close proximity to lower density residential zones. The purpose of these development standards is to ensure the harmonious transition between lower and higher intensity development.

B. The existing language on height transitions has created confusion among the public, project applicants, and City staff. This confusion, in turn, has resulted in differing interpretations of the law over the years.

C. The City Council now wishes to clarify the zoning code with respect to height transitions. The clarifications to height transition standards contained in this ordinance are declarative of existing law.

SECTION 2. Section 18.08.030 (References to Districts) of Chapter 18.08 (Designation and Establishment of Districts) of Title 18 (Zoning) is amended as follows (new text underlined):

18.08.030 References to Districts

Reference within this title to residential districts generally and as a grouping, includes all districts identified in this section. Where references are made to more restrictive or less restrictive residential districts, such references shall apply sequentially between the most restrictive and the least restrictive.

<table>
<thead>
<tr>
<th>Residential District</th>
<th>Restrictive Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>RE</td>
<td>Most Restrictive</td>
</tr>
<tr>
<td>R-1 (20,000)</td>
<td></td>
</tr>
<tr>
<td>R-1 10,000)</td>
<td></td>
</tr>
<tr>
<td>R-1 (8,000)</td>
<td></td>
</tr>
<tr>
<td>R-1 (7,000)</td>
<td></td>
</tr>
<tr>
<td>R-1</td>
<td></td>
</tr>
</tbody>
</table>
SECTION 3. Section 18.13.040 (Development Standards) of Chapter 18.13 (Multiple Family Residential (RM-20, RM-30 and RM-40) Districts) of Title 18 (Zoning) is amended as follows (new text underlined and deletions struck through; omissions are noted with [. . .] for large sections of unchanged text):

18.13.040 Development Standards

(a) Site Specifications, Building Size and Bulk, and Residential Density

The site development regulations in Table 2 shall apply in the multiple-family residence districts, provided that more restrictive regulations may be recommended by the Architectural Review Board and approved by the Director of Planning and Development Services, pursuant to the regulations set forth in Chapter 18.76, performance criteria set forth in Chapter 18.23, and the context-based design criteria set forth in Section 18.13.060.

Table 2
Multiple Family Residential Development Table

<table>
<thead>
<tr>
<th></th>
<th>RM-20</th>
<th>RM-30</th>
<th>RM-40</th>
<th>Subject to regulations in:</th>
</tr>
</thead>
<tbody>
<tr>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
</tr>
<tr>
<td>Minimum Setbacks</td>
<td>Setback lines imposed by a special setback map pursuant to Chapter 20.08 of this code may apply</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front Yard (ft)</td>
<td>20</td>
<td>20</td>
<td>0-25</td>
<td>20 (1,2)</td>
</tr>
<tr>
<td>On arterial roadways, expressways, and freeways (1)</td>
<td>0-20 (1,2)</td>
<td>0-20 (1,2)</td>
<td>0-25 (1,2)</td>
<td></td>
</tr>
<tr>
<td>Interior Side Yards (ft)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>For lots with width of 70 feet or greater</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>For lots with width of less than 70 feet</td>
<td>6 feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interior Rear Yards (ft)³</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Street Side and Street Rear Yards (ft)</td>
<td>16</td>
<td>16</td>
<td>0-16 (2)</td>
<td></td>
</tr>
</tbody>
</table>
### Maximum Height (ft)

<table>
<thead>
<tr>
<th>Maximum Height for those portions of a site within 50 feet of a more restrictive abutting residential district or a site containing a residential use in a nonresidential district (9)</th>
<th>30</th>
<th>35</th>
<th>40</th>
</tr>
</thead>
</table>

**Footnotes:**

1. Minimum front setbacks shall be determined by the Architectural Review Board upon review pursuant to criteria set forth in Chapter 18.76 and the context-based criteria outlined in Section 18.13.060. Arterial roadways, expressways, and freeways are identified in Map T-5 of the Comprehensive Plan and do not include residential arterials.

2. Lesser setbacks may be allowed by the Planning Director, upon recommendation. Minimum street side setbacks in the RM-40 zone may be from 0 to 16 feet and shall be determined by the Architectural Review Board upon review pursuant to criteria set forth in Chapter 18.76 and the context-based criteria outlined in Section 18.13.060. Special setbacks may not be reduced except upon approval of a design enhancement exception or variance.

(8) The minimum density for a site may be reduced by the Director if, after the proposal is reviewed by the Architectural Review Board, the Director finds that existing site improvements or other parcel constraints, preclude the development from meeting the minimum density. A site with an existing single-family use or two-family use may be redeveloped at the existing density, either single-family or two-family as applicable. An existing or replaced single-family or two-family residence shall not be considered a nonconforming use, and the provisions of Chapter 18.70 shall not apply, solely based on the minimum density requirement.

(9) Distance shall be measured from the property line of the subject site.

**SECTION 4.** Section 18.16.060 (Development Standards) of Chapter 18.16 (Neighborhood, Community, And Service Commercial (CN, CC And CS) Districts) of Title 18 (Zoning) is amended as follows (new text underlined and deletions struck-through; omissions are noted with [ . . .] for large sections of unchanged text):

**18.16.060 Development Standards**

(a) Exclusively Non-Residential Uses

Table 3 specifies the development standards for exclusively non-residential uses and alterations to non-residential uses or structures in the CN, CC, CC(2) and CS districts. These
developments shall be designed and constructed in compliance with the following requirements and the context-based design criteria outlined in Section 18.16.090, provided that more restrictive regulations may be recommended by the architectural review board and approved by the director of planning and development services, pursuant to Section 18.76.020.

Table 3
Exclusively Non-residential Development Standards

<table>
<thead>
<tr>
<th>CN</th>
<th>CC</th>
<th>CC(2)</th>
<th>CS</th>
<th>Subject to regulations in Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>[...]</td>
<td>[...]</td>
<td>[...]</td>
<td>[...]</td>
<td>[...]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Maximum Height (ft)</th>
<th>Standard</th>
<th>25' and 2 stories</th>
<th>50'</th>
<th>37' (4)</th>
<th>50'</th>
<th>18.08.030</th>
</tr>
</thead>
<tbody>
<tr>
<td>Portions of a site within 150 ft. of an abutting residential district (other than an RM-40 or PC zone) (9) abutting or located within 50 feet of the site</td>
<td>35'</td>
<td>35'</td>
<td>35'</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Footnotes:
(1) No parking or loading space, whether required or optional, shall be located in the first 10 feet adjoining the street property line of any required yard.

(9) Distance shall be measured from the property line of the subject site. 150-foot measurement may be reduced to 50 feet at minimum, subject to approval by the Planning Director, upon recommendation by the Architectural Review Board pursuant to criteria set forth in Chapter 18.76.

(b) Mixed Use and Residential
Table 4 specifies the development standards for new residential mixed use developments and residential developments. These developments shall be designed and constructed in compliance with the following requirements and the context-based design criteria outlined in Section 18.16.090, provided that more restrictive regulations may be recommended by the architectural review board and approved by the director of planning and development services, pursuant to Section 18.76.020.
Table 4
Mixed Use and Residential Development Standards

<table>
<thead>
<tr>
<th></th>
<th>CN</th>
<th>CC</th>
<th>CC(2)</th>
<th>CS</th>
<th>Subject to regulations in:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
</tr>
<tr>
<td><strong>Maximum Height (ft)</strong></td>
<td>Standard</td>
<td>35'(4)</td>
<td>50'</td>
<td>37'</td>
<td>50'</td>
</tr>
<tr>
<td>Portions of a site within 150 ft. of an abutting residential zone district (other than an RM-40 or PC zone) within 50 feet of the side</td>
<td>35'</td>
<td>35'(5)</td>
<td>35'(5)</td>
<td>35'(5)</td>
<td>18.08.030</td>
</tr>
<tr>
<td></td>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
</tr>
</tbody>
</table>

Footnotes:
(1) Twenty-five-foot driveway access permitted regardless of frontage; build-to requirement does not apply to CC district.

(5) For sites abutting an RM-40 zoned residential district or a residential Planned Community (PC) district, maximum height may be increased to 50 feet. Distance shall be measured from the property line of the subject site. 150-foot measurement may be reduced to 50 feet at minimum, subject to approval by the Planning Director, upon recommendation by the Architectural Review Board pursuant to criteria set forth in Chapter 18.76.

(10) In the CC(2) zone and on CN and CS zoned sites on El Camino Real, there shall be no minimum mixed use ground floor commercial FAR for a residential project, except to the extent that the retail preservation requirements of Section 18.40.180 or the retail shopping (R) combining district (Chapter 18.30(A)) applies.

(1) Nonresidential uses that involve the use or storage of hazardous materials in excess of the exempt quantities prescribed in Title 15 of the Municipal Code, including but not limited to dry cleaning plants and auto repair, are prohibited in a mixed use development with residential uses.

(2) Residential mixed use development is prohibited on any site designated with an Automobile Dealership (AD) Combining District overlay.
(c) Exclusively Residential Uses

[...]

SECTION 5. Section 18.18.060 (Development Standards) of Chapter 18.18 (Downtown Commercial (CD) District) of Title 18 (Zoning) is amended as follows (new text underlined and deletions struck-through; omissions are noted with [...] for large sections of unchanged text):

18.18.060 Development Standards

(a) Exclusively Non-Residential Use

Table 2 specifies the development standards for new exclusively non-residential uses and alterations to non-residential uses or structures in the CD district, including the CD-C, CD-S, and CD-N subdistricts. These developments shall be designed and constructed in compliance with the following requirements and the context-based design criteria outlined in Section 18.18.110, provided that more restrictive regulations may be recommended by the architectural review board and approved by the director of planning and development services, pursuant to Section 18.76.020:

<table>
<thead>
<tr>
<th></th>
<th>CD-C</th>
<th>CD-S</th>
<th>CD-N</th>
<th>Subject to regulations in Section:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Height (ft)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard</td>
<td>50</td>
<td>50</td>
<td>25</td>
<td></td>
</tr>
<tr>
<td>Portions of a site within 150 ft. of an abutting residential zone district</td>
<td>– (3)</td>
<td>– (3)</td>
<td>– (3)</td>
<td>18.08.030</td>
</tr>
</tbody>
</table>

(b) Mixed Use and Residential

Table 3 specifies the development standards for new residential mixed use developments and residential developments. These developments shall be designed and constructed in compliance with the following requirements and the context-based design criteria outlined in Section 18.18.110, provided that more restrictive regulations may be recommended by the architectural review board and approved by the director of planning and development services, pursuant to Section 18.76.020:
### TABLE 3
**MIXED USE AND RESIDENTIAL DEVELOPMENT STANDARDS**

<table>
<thead>
<tr>
<th></th>
<th>CD-C</th>
<th>CD-S</th>
<th>CD-N</th>
<th>Subject to regulations in Section:</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ . . . ]</td>
<td>[ . . . ]</td>
<td>[ . . . ]</td>
<td>[ . . . ]</td>
<td>[ . . . ]</td>
</tr>
<tr>
<td><strong>Maximum Height (ft)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard</td>
<td>50'</td>
<td>50'</td>
<td>35'</td>
<td>18.08.030</td>
</tr>
<tr>
<td>Portions of a site w</td>
<td>40'(4)</td>
<td>40'(4)</td>
<td>35'(4)</td>
<td>18.08.030</td>
</tr>
<tr>
<td>within 150 ft. of an a</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>abutting residential z</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>district (other than an</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RM-40 or PC zone)(4)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[ . . . ]</td>
<td>[ . . . ]</td>
<td>[ . . . ]</td>
<td>[ . . . ]</td>
<td>[ . . . ]</td>
</tr>
</tbody>
</table>

**Footnotes:**
1. Required usable open space: (1) may be any combination of private and common open spaces; (2) does not need to be located on the ground (but rooftop gardens are not included as open space except as provided below); (3) minimum private open space dimension 6; and (4) minimum common open space dimension 12.

For CN and CS sites on El Camino Real, CS sites on San Antonio Road between Middlefield Road and East Charleston Road and CC(2) sites that do not abut a single- or two-family residential use or zoning district, rooftop gardens may qualify as usable open space and may count as up to 60% of the required usable open space for the residential component of a project. In order to qualify as usable open space, the rooftop garden shall meet the requirements set forth in Section 18.40.230.

(4) Distance shall be measured from the property line of the subject site. For sites abutting an RM-40 zoned residential district or a residential Planned Community (PC) district, maximum height may be increased to 50 feet.

(5) The weighted average residential unit size shall be calculated by dividing the sum of the square footage of all units by the number of units. For example, a project with ten 800-square foot 1-bedroom units, eight 1,200-square foot 2-bedroom units, and two 1,800-square foot 3-bedroom units would have a weighted average residential unit size of 

\[
\frac{((10 \times 800) + (8 \times 1,200) + (2 \times 1,800))}{(10 + 8 + 2)} = 1,060 \text{ square feet.}
\]

[ . . . ]
SECTION 6.  Section 18.20.040 (Site Development Standards) of Chapter 18.20 (Office, Research, And Manufacturing (MOR, ROLM, RP And GM) Districts) of Title 18 (Zoning) is amended as follows (new text underlined and deletions struck-through; omissions are noted with [. . .] for large sections of unchanged text):

18.20.040  Site Development Standards

Development in the office research, industrial, and manufacturing districts is subject to the following development standards, provided that more restrictive regulations may be required as part of design review under Chapter 18.76 of the Palo Alto Municipal Code.

(a) Development Standards for Non-Residential Uses
Table 2 shows the site development standards for exclusively non-residential uses in the industrial and manufacturing districts.

<table>
<thead>
<tr>
<th>TABLE 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>INDUSTRIAL/MANUFACTURING NON-RESIDENTIAL SITE DEVELOPMENT STANDARDS</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MOR</th>
<th>ROLM</th>
<th>ROLM(E)</th>
<th>RP</th>
<th>RP(5)</th>
<th>GM</th>
<th>Subject to Regulations in Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
<td>[. . .]</td>
</tr>
</tbody>
</table>

**Maximum Height (ft)**

<table>
<thead>
<tr>
<th>Standard</th>
<th>50</th>
<th>35(4)</th>
<th>35(4)</th>
<th>50</th>
</tr>
</thead>
<tbody>
<tr>
<td>Portions of a site within 150 ft. of an abutting residential zone district (5)</td>
<td>35</td>
<td>35</td>
<td>35</td>
<td>35</td>
</tr>
<tr>
<td>Portions of a site within 40 ft. of an abutting residential zone district(5)</td>
<td>35</td>
<td>25</td>
<td>25</td>
<td>35</td>
</tr>
</tbody>
</table>

(5) Distance shall be measured from the property line of the subject site. Residential zones include R-1, R-2, RE, RMD, RM-20, RM-30, RM-40 and residential Planned Community (PC) zones.

[. . .]

SECTION 7.  Section 18.30(J).090 (Development Standards) of Subchapter 18.30(J) (Affordable Housing (AH) Combining District Regulations) of Chapter 18.30 (Combining Districts) of Title 18 (Zoning) is amended to read as follows (new text underlined and deletions struck-through; omissions are noted with [. . .] for large sections of unchanged text):
18.30(J).090 Development Standards

The following development standards shall apply to projects subject to the AH affordable housing combining district in lieu of the development standards for the underlying zoning district, except where noted below:

Table 1
Development Standards

<table>
<thead>
<tr>
<th>Minimum Site Specifications</th>
<th>AH Combining District (1)</th>
<th>Subject to regulations in:</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ . . ]</td>
<td>[ . . ]</td>
<td>[ . . ]</td>
</tr>
</tbody>
</table>

Maximum Height (ft)

| Portions of a site within 50 ft of an abutting residential district (other than an RM-40 or PC zone) R1, R-2, RMD, RM-20, or RM-30 zoned property | 35'(3) | 18.08.030 |

(3) Distance shall be measured from the property line of the subject site. The Planning Director may recommend a waiver from the transitional height standard.

 [. . .]

SECTION 8. Section 18.30(K).070 (Development standards) of Subchapter 18.30(K) (Workforce Housing (WH) Combining District Regulations) of Chapter 18.30 (Combining Districts) of Title 18 (Zoning) is amended to read as follows (new text underlined and deletions struck-through; omissions are noted with [ . . .] for large sections of unchanged text):

18.30(K).070 Development Standards

(a) Where the WH combining district is combined with the public facilities district, the following development standards shall apply for workforce housing projects, including permitted incidental uses, in lieu of the development standards for the underlying PF zoning district:

Table 1
Development Standards

<table>
<thead>
<tr>
<th>Minimum Site Specifications</th>
<th>WH Combining District</th>
<th>Subject to regulations in:</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ . . ]</td>
<td>[ . . ]</td>
<td>[ . . ]</td>
</tr>
</tbody>
</table>
### Maximum Height (ft)

<table>
<thead>
<tr>
<th>Standard</th>
<th>50’</th>
</tr>
</thead>
<tbody>
<tr>
<td>Portions of a site within 150 ft. of an abutting residential district (other than an RM-40 or PC zone)(5) abutting or located within 50 feet of the site</td>
<td>35’, except as limited by applicable daylight plane requirements</td>
</tr>
</tbody>
</table>

**Footnotes:**

(5) Distance shall be measured from the property line of the subject site.

**SECTION 9.** Section 18.38.150 (Special requirements) of Chapter 18.38 (PC Planned Community District Regulations) of Title 18 (Zoning) is amended to read as follows (new text underlined and deletions struck-through; omissions are noted with [. . .] for large sections of unchanged text):

**18.38.150 Special requirements.**
Sites abutting or having any portion located within one hundred fifty 150 feet of any RE, R-1, R-2, RMD, RM, or any PC district permitting single-family development or multiple-family development shall be subject to the following additional height and yard requirements:

(a) Parking Facilities. The maximum height shall be equal to the height established in the most restrictive adjacent zone district.

(b) All Other Uses. The maximum height within one hundred fifty 150 feet of any RE, R-1, R-2, RMD, RM, or applicable PC district shall be thirty-five 35 feet; provided, however, that for a use where the gross floor area excluding any area used exclusively for parking purposes, is at least sixty 60 percent residential, the maximum height within one hundred fifty 150 feet of an RM-4-30 or RM-5-40 district shall be fifty 50 feet.

[. . .]

**SECTION 10.** Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

**SECTION 11.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent
jurisdiction, such decision shall not affect the validity of the remaining portions of this
Ordinance. The City Council hereby declares that it would have passed this Ordinance and each
and every section, subsection, sentence, clause, or phrase not declared invalid or
unconstitutional without regard to whether any portion of the ordinance would be
subsequently declared invalid or unconstitutional.

**SECTION 12.** The Council finds that the Ordinance is within the scope of and in furtherance of
the Comprehensive Plan 2030 which was evaluated in that certain Final Environmental Impact
Report certified and for which findings were adopted by Council Resolution Nos. 9720 and 9721
on November 13, 2017, all in accordance with the California Environmental Quality Act. The
Ordinance does not propose to increase development beyond what was analyzed in the
Comprehensive Plan. Pursuant to Section 15168 of the State CEQA Guidelines, the City has
determined that no new effects would occur from and no new mitigation measures would be
required for the adoption of this Ordinance.

**SECTION 13.** This ordinance shall be effective on the thirty-first date after the date of its
adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTION:

ATTEST:

____________________________   ____________________________
City Clerk       Mayor

____________________________
Assistant City Attorney

APPROVED AS TO FORM:

APPROVED:

____________________________
City Manager

____________________________
Director of Planning & Development
Services
City of Palo Alto
City Council Staff Report

Report Type: Action Items  Meeting Date: 5/9/2022

Summary Title: Permanent Parklet Program Discussion and Direction

Title: Review and provide feedback on the proposed permanent parklet standards and program policies; and Adopt an interim ordinance and resolution to continue the pilot parklet program until December 31, 2022

From: City Manager

Lead Department: Planning and Development Services

Recommendation
Staff recommend that the City Council:

1. Review and provide feedback on the proposed permanent parklet standards (Attachment A) and program policies; and
2. Adopt the attached interim ordinance (Attachment B) and resolution (Attachment C) to continue the pilot parklet program until December 31, 2022.

Report Summary
In 2020, Palo Alto joined cities throughout the Bay Area—and indeed the nation—by expanding opportunities for outdoor dining in response to the COVID-19 pandemic, including a pilot parklet program. On April 19, 2021, the Council directed staff to “Develop a permanent parklet program with the input of the Architectural Review Board.”

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1 Full motion: “MOTION AS AMENDED RESTATED: Council Member Cormack moved, seconded by Vice Mayor Burt to: A. Extend the City Manager’s authority to close portions of University Avenue and certain intersecting streets, and to close portions of California Avenue and certain intersecting streets as part of Uplift Local to October 31, 2021; i. Consider providing performance space; B. Direct Staff to return with a Resolution extending temporary parklets to December 31, 2021; C. Develop a permanent parklet program with the input of the Architectural Review Board; D. Direct Staff to review and pursue additional measures to support businesses negatively impacted by the current program; and E. Request Staff to coordinate impacts of construction projects in the California Avenue and Downtown areas with street closures, an continue communicating with residents and businesses.” Minutes: https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/city-council-agendas-minutes/2021/04-19-21-ccm-action-minutes.pdf
This report and attachments propose a permanent parklet program. The report focuses on 3 aspects of the program: (1) Parklet Design and Operation Standards for Safety and Aesthetics (2) Efficient Permitting and Program Operations and (3) Compensation Structure for the Use of Public Space.

Staff seek the Council’s feedback on the proposed program. The feedback will be incorporated into the program and the accompanying ordinance that will be presented to Council in the fall of 2022. A fall adoption timeline allows time for further refinement, additional input from the Architectural Review Board (ARB), additional outreach, and first and second reading of a regular ordinance. Due to the extended timeline, staff recommend Council extend the pilot program to ensure continuity. Staff recommend a six-month extension to the end of 2022.

As of the writing of this report, the Architectural Review Board is providing initial feedback on the standards that will be relayed to the Council via an at-places memorandum. Likewise, staff is conducting a focus group and survey with local businesses that was not concluded in time for inclusion in this report.

**Background**

**Parklets During and After the Pandemic**

Throughout the United States outdoor dining became an important aspect of life during the COVID 19 pandemic. For many restaurants, offering outdoor dining allowed them to remain open and endure the pandemic. For customers, particularly in California and the Bay Area, outdoor dining became a way to enjoy the company of others with decreased risk of spreading COVID. Palo Alto, like many cities, allowed parklets for the very first time in order to aid local businesses and provide a place for residents to gather.

Parklets, along with closed streets, have been beloved by many Palo Alto residents—with the Council receiving thousands of emails of support over the last two years. Further restauranters have noted the positive impact of parklets, particularly when patrons are reluctant to dine indoors.

As the City considers creating a permanent parklet program that can endure beyond the pandemic, there are three key aspects of the program to consider:

1. **Parklet Design and Operation Standards for Safety and Aesthetics** — Details minimum requirements for parklet design, construction, and operation by permit holders.
2. **Efficient Permitting and Program Operations** — Ensuring applications can be received and reviewed, that construction can be inspected, and that compliance with standards remains enduring.
3. **Compensation Structure for the Use of Public Space** — Determining the right charge for the private use of public space for parklet construction and operation.
The Discussion section reviews each of these areas and seeks Council’s feedback and further direction to refine and finalize these items.

Summary of Legislative History
On June 23, 2020, the City Council adopted Ordinance No. 5500, which temporarily permitted businesses, such as restaurants, retail, and personal services to operate outdoors on both public and private property in lieu of normal zoning and parking requirements.

Ordinance 5500 was adopted as an emergency ordinance based, in part, on the presence of restrictions prohibiting many indoor business operations due to the COVID-19 pandemic and associated Public Health guidelines. At the same time, the City Council approved Resolution 9909, which provided additional implementation guidelines for the pilot parklet program.

On April 19, 2021, the City Council directed staff to develop a permanent parklet program and directed staff to draft a resolution extending the pilot parklet program to December 31, 2021. That ordinance passed on June 22, 2021. On September 13, 2021, the program was extended again to a new sunset date of June 30, 2022.

Pilot Parklet Guidelines
The pilot parklet guidelines were developed focused on reducing risk and maximizing safety for parklet patrons, motorists, and pedestrians. Due to the emergency nature of their development, aesthetic considerations were not included.

While expedient, the design and subsequent implementation of the pilot guidelines has led to a plethora of parklet designs and operations. Some have pejoratively referred to our current parklets as “carnival” like, due to the mix of designs and variety in quality. In addition, compliance with the guidelines has varied greatly between permit holders, with a variety of conditions existing. Staff continue to document and provide notices of violations to permit holders; though compliance and corrections remain challenging.

Discussion & Analysis

Parklet Design and Operation Standards for Safety and Aesthetics

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Attachment A contains proposed parklet standards recommended by staff. Staff have crafted these recommendations based on experience of over 60 parklets that exist throughout Palo Alto and after reviewing permanent parklet programs in other cities (Attachment D). Staff carefully considered of how to balance safety, aesthetics, the public realm, the needs of local businesses and the public.

While technical in nature, staff wish to describe some areas of the standards that represent significant departures from the pilot program. This can ensure Council and the public are aware of the proposed changes and can provide feedback as deemed appropriate.

- **Retrofitting** – Staff propose that once new standards are adopted as part of a regular ordinance, existing permit holders will need to bring their parklets into compliance. The costs to retrofit the parklets will vary from one parklet to the next, but could be significant for some businesses. Staff feel retrofitting is imperative to ensure that outstanding violations are resolved and that all parklets benefit from the improved safety and aesthetics standards.

  Staff do support a transitional time period to allow existing permit holders to obtain approval for retrofitting existing parklets. This may include a deadline for existing permit holders to apply for a permanent parklet, set timeline for application review, and a deadline for retrofitting to be completed.

- **Edge Treatment** – All parklets have an edge treatment, an enclosure that prevents patrons from entering vehicle travel lanes and delineates the outer boundaries of the parklet platform.

  Staff recommend, at minimum, requiring the parklet edge to contain “periodic barriers.” These may be planters or other heavy containers, filled with 500 lbs. of soil, sand, water, or concrete along the edge perpendicular to traffic and spaced at least every 6 feet along the parklet edge. In Figure 1, below, planters are used to provide the periodic barriers while cables fill in the balance of the enclosure. Staff recommend this treatment as it provides safety in an aesthetically pleasing manner while retaining the functionality of the platform area. With this approach, parklet patrons have a similar level of protection from vehicular collision as they would walking down a public sidewalk.
Figure 1

Council may wish to consider more robust edge treatments that provide additional protection from vehicle collisions. Such enclosures could be k-rail or other MUTCD rated barriers. These barriers provide more safety, but take up more area than the recommended approach, reducing a parklet’s usable area. In addition, such barriers are costly to install. Lastly, they are difficult to move, requiring special equipment. That durability also means limitations should an emergency make quick movement necessary. Though often unattractive, such barriers can be made more visually pleasing and interesting by requiring covering of the barriers with art or other surfacing.

- **Sidewalls** – Another area of discussion is the relative open or closed nature of a parklet. In particular, whether and if parklets can have sidewalls and/or coverings. The draft standards propose to prohibit walls higher than 42” from the ground. This allows visibility for motorists and pedestrians, enhancing safety as well as allowing visibility to storefronts. This conditional also further enhances the connection between the parklet and the public realm, creating a porous semi-private space, versus a walled and completely private space.

Staff will be looking to the ARB to provide further feedback regarding this proposed standard; in particular if clear sidewalls would be considered desirable and/or appropriate or if the more open condition is preferred. Business owners are concerned about being able to use sidewalls to aid in temperature control—heating and shading for cooling. Controlling the climate, however, is an inherent challenge when providing outdoor dining options. It may be, that as the pandemic truly wanes, patrons desiring a certain climate will need to choose to dine indoors while the outdoor environment has greater temperature variation.
• **Heaters** – Staff recommend prohibiting the use of propane heaters at all parklets. Staff, particularly Fire Department personnel, have observed numerous pilot parklet permit holders’ persistent and pervasive failure to safely store propane and safely operate propane heaters in accordance with fire safety standards. In addition, as the City seeks to reduce greenhouse gas emissions, requiring electrification of permanent parklets maximizes safety and reduces ghg production. This change, however, will require a significant adjustment for permit holders and require purchase and installation of electric outdoor heaters. Of course, heaters are optional and not required.

• **Neighboring Business and Building Owner Support** – If the proposed parklet extends beyond an applicant’s storefront, staff recommend the applicant obtain letters of support from the neighboring ground-floor tenant(s) and building owner(s). This procedure aims to increase communication among neighbors, reduce conflict, and minimize negative impacts of the parklet’s design and construction on neighboring businesses. This policy could have the impact of decreasing the size of some parklets or altering their design.

In response to Council direction on September 13, 2021\(^5\) and property owner concerns about parklets constructed under the pilot program, staff updated the existing parklet standards on March 28, 2022, to no longer allow existing parklets in front of a neighboring ground-floor tenant or building owner if either object.

• **Limit sidewalk dining in conjunction with parklets** – Parklets can activate the public realm, bringing an enlivened and festive atmosphere. When paired with sidewalk dining, however, parklets can too greatly erode the public realm, decreasing the area for pedestrians to pass safely and comfortably. Staff recommend requiring 8 feet of clear, unobstructed path of travel in order for a restaurant to be eligible for a sidewalk dining permit in conjunction with a parklet.

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\(^5\) Full Motion: “MOTION AS AMENDED: Vice Mayor Burt moved, seconded by Mayor DuBois to: A. Direct the City Manager to reopen University Avenue on October 15, 2021; B. Adopt a Resolution to continue with a partial closure on Ramona, extending through June 2022; C. Modify the parklet rules to accommodate parklets adjacent to restaurants where they are not interfering with neighboring consumer businesses that oppose, and extend the Parklet Program until June 2022; and D. Direct Staff to proceed with a Streetscape RFP including stakeholder input and sales tax data analysis (to the extent that it can be utilized) that the consultant’s recommendations would build off the learning experiences in the re-opening of the coming months. MOTION: Vice Mayor Burt moved, seconded by Council Member Cormack to: A. Adopt a Resolution authorizing the closure of California Avenue through June 2022; and B. Direct Staff to return to the City Council for further discussion regarding additional elements on the California Ave street closure; and C. Direct Staff to return to the City Council for discussion on a permanent street closure for California Ave.”

• **No Fabric Tents or Canopies** – Roof structures over parklets are allowed under the proposed standards. Parklet operators may also choose to use umbrellas to provide shade to patrons. Roofs made of fabric, tents, and canopies are not allowed. This prohibition aims to minimize fire hazard and risk of wind uplift, while enhancing the visual environment. During the pandemic, some businesses turned to fabric tents and canopies as short-term solutions. While low cost and effective, these are not appropriate treatments for permanent parklets.

• **Alcoholic Beverage Service** – The California State Department of Alcoholic Beverage Control (ABC) relaxed many regulations during the pandemic. While state lawmakers have made some of the changes enduring, staff anticipate a return to pre-COVID regulations at some point. These include specific requirements for how spaces should be set up to ensure minors do not have access to alcoholic beverages at parklets. In addition, Palo Alto requires amendments to conditional use permits (CUPs) when alcohol service expands outdoors. Restaurants seeking to serve alcoholic beverages at parklets must apply for and be granted an amendment to their conditional use permit and design their parklet to comply with ABC rules. Staff have proposed, in the 2022-2023 fee schedule, a specific CUP amendment for alcohol. This is not only in anticipation of parklets, but in response to requests prior to the pandemic for a cost-effective approach to process single alcohol CUP amendments for existing restaurants.

**Efficient Permitting and Program Operations**
The parklet permit will fall under the purview of the Public Works Department; mirroring the pilot program. Public Works will engage partner departments as necessary to review the permits, such as of Office of Transportation and Planning and Development Services. In some cases, such as parklets seeking to have electrical service, a building permit will also be required. In additional cases, such as those seeking to have alcohol service at parklets, a Conditional Use Permit Amendment application and approval will be required. These are just a few examples of interdepartmental cooperation that the program requires.

In addition to review of a parklet’s plans, the permanent program will also feature inspection of the parklet during construction. During the pilot program, many permit holders worked quickly to establish their parklets, due to dire need to provide dining space. Under the permanent program, permit holders will call for 2 inspections during construction. Further, the parklets will be subject to an annual inspection to ensure compliance with the program’s requirements. The fee for this recurring inspection will be cost recovery and charged annually.

Applicants will pay a cost recovery application fee that includes plan review and construction inspections. Based on pilot parklet applications, staff have estimated the staff hours needed to review permit applications. The fee will be proposed in the fee schedule as part of the 2022-2023 budget and would become effective on Council adoption.
Staff recommend establishing an annual time period during which parklet applications can be submitted. This will allow staff to review the proposed applications contextually; that is, staff can understand where parklets are proposed to be located and can consider any impacts or adjustments that are recommended. For example, if a block has a high concentration of proposed parklets, staff may recommend a loading zone and a disabled parking space be added in the vicinity. A fixed application time period also allows staff to focus efforts to review and subsequently inspect parklets.

Compensation Structure for the Use of Public Space

In addition to covering the cost of permit review and inspections, many cities require parklets to pay an annual fee for the private use of public space. Unlike fees for permit review, this charge is not limited to only covering the City’s direct costs. Instead, this charge is more akin to a lease or other rental that can be set at rates the City chooses and that the market will bear.

Staff surveyed 8 cities that have adopted permanent parklet programs in order to understand the wide range of amounts and methodologies employed by these cities. The results are in Table 1, below. The costs range from a low of $500 in Seattle to a high of $7,000 in Walnut Creek. In San Diego, the fee varies by size and has a built-in equity component for different areas of the City. Given the dimensions of a typical parking space, the cost per space per year in San Diego may range from $2000 - $6000 per space; and many parklets occupy more than 1 parking space.

Of the cities studied, 4 base their rates on the parking revenue generated by a parking space. That is, in turn, based on the paid parking rates of the city. Two cities, Burlingame and Mountain View, based their charges on a fraction of commercial market rental rates.

<table>
<thead>
<tr>
<th>JURISDICTION</th>
<th>FEE TYPE</th>
<th>FEE TOTAL</th>
<th>METHODOLOGY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Burlingame</td>
<td>Annual Fee</td>
<td>$1,500</td>
<td>Based on 9% of going market rental rates in city (based on a typical parklet being ~300 sq. ft.)</td>
</tr>
<tr>
<td>Long Beach</td>
<td>Annual Renewal Fee</td>
<td>$684 - $1090</td>
<td>Fee dependent on size (under 200 sq. ft. or greater than 200 sq. ft). An additional 6.24% administrative surcharge is added to each fee.</td>
</tr>
<tr>
<td>Mountain View</td>
<td>Annual Rent</td>
<td>$1,200 plus $6/sf</td>
<td>Based on 9% of going market rental rates in city (based on a typical parklet being ~300 sq. ft.)</td>
</tr>
<tr>
<td>Pleasanton</td>
<td>Annual Fee</td>
<td>$1,000</td>
<td>Median cost of current charge for downtown parking and hypothetical value of metered parking.</td>
</tr>
</tbody>
</table>
The fees vary, depending upon where in the city the businesses are located. The San Diego planning department is using a “climate equity index” for determining whether a business owner will pay $10, $20 or $30 a square foot.

The baseline of $20/ sf is based on average parking revenue for a parking space.

**Table 2: Additional Parklet Methodologies**

<table>
<thead>
<tr>
<th>OPTION</th>
<th>ANNUAL</th>
<th>MONTHLY FEE</th>
<th>METHODOLOGY &amp; NOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>On Street Parking Rate - Hourly</td>
<td>$0</td>
<td>$0</td>
<td>Palo Alto does not currently charge by the minute or hour for the use of on street parking for private vehicles. Suggesting the monetary value of the space to the City is zero. There are, however, time restrictions for on-street parking in many commercial areas in Palo Alto.</td>
</tr>
<tr>
<td>On Street Parking Rate - Daily</td>
<td>$9,125 = 1 space $18,250 = 2 spaces $27,375 = 3 spaces</td>
<td>$760 $1,521 $2,281</td>
<td>The current daily fee for use of parking space is $25/ day. This is what a contractor, for example, might pay to have full use of a parking space for 24 hours. $25 x 365 days = $9,125 per space Parklets range from 1 - 3 parking spaces.</td>
</tr>
<tr>
<td>Amortized In-Lieu Parking Space</td>
<td>$12,700 = 1 space $25,400 = 2 space $38,100 = 3 space</td>
<td>$1,058 $2,117 $3,175</td>
<td>Assuming the in-lieu parking fee approximates the cost to build a new parking space, this method amortizes the cost per space over 10 years. The in-lieu parking fee is $127,000/ space. Albeit, this amount takes into account construction of a parking garage, which is not exactly equivalent to the cost of an on-street space.</td>
</tr>
</tbody>
</table>
Staff also researched the lease costs of ground floor retail spaces in Palo Alto; provided in Table 3. The average per square foot cost is quite high in Downtown Palo Alto, at $63 per square foot, but much lower throughout the rest of the city at just $30 per square foot.

Unlike a building, however, parking spaces are completely unfinished spaces that feature no electricity, no flooring, no ceiling, no plumbing, no walls, nor any of the other features that command the above rents. In addition, the right to use the parking space is revocable at any time, unlike most commercial leases. So, the potential parking space rental rate is modeled as a fraction of the commercial rental rate, ranging from 10% up to 50%.

<table>
<thead>
<tr>
<th>Area of Palo Alto</th>
<th>Rental Rate Average (Per Sq. Ft.)</th>
<th>Annual Cost (Applied to 200** Sq. Ft.)</th>
<th>10%</th>
<th>15%</th>
<th>30%</th>
<th>50%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Downtown Palo Alto</td>
<td>$63</td>
<td>$12,600</td>
<td>$1,260.00</td>
<td>$1,890.00</td>
<td>$3,780.00</td>
<td>$6,300.00</td>
</tr>
<tr>
<td>All of Palo Alto</td>
<td>$57</td>
<td>$11,400</td>
<td>$1,140.00</td>
<td>$1,710.00</td>
<td>$3,420.00</td>
<td>$5,700.00</td>
</tr>
<tr>
<td>Remainder of Palo Alto (excluding Downtown)</td>
<td>$30</td>
<td>$6,000</td>
<td>$600.00</td>
<td>$900.00</td>
<td>$1,800.00</td>
<td>$3,000.00</td>
</tr>
</tbody>
</table>

* Rates for Ground Floor Retail leases signed between January 2020 and March 2022 from CoStar Lease Comps Summary

**200 sq. ft. is average size of parallel parking space.

Table 4 below further elaborates on the cost above, showing the monthly cost per 1, 2, and 3 parking spaces—as most parklets occupy more than one parking space.

<table>
<thead>
<tr>
<th>Location</th>
<th>10%</th>
<th>15%</th>
<th>30%</th>
<th>50%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Downtown</td>
<td>$2,520</td>
<td>$3,780</td>
<td>$5,670</td>
<td>$7,560</td>
</tr>
<tr>
<td>All of Palo Alto</td>
<td>$2,280</td>
<td>$3,420</td>
<td>$5,130</td>
<td>$6,840</td>
</tr>
<tr>
<td>Remainder (w/o dtwn)</td>
<td>$1,200</td>
<td>$1,800</td>
<td>$2,700</td>
<td>$3,600</td>
</tr>
</tbody>
</table>

Table 5: Monthly Cost Per Typical Parklet Based on Discounted Commercial Rent
As the above research and analysis shows, there are numerous methods to calculate an appropriate annual charge for the private use of public space. Staff recommend balancing compensation for the use of public space with generating revenues that can support adequate staffing and compliance oversight of the program, and ensuring participation in the program to maintain the vibrancy and economic uplift parklets have generated. If the price is too low, the City may not be able to successfully sustain the program. If the price is too high, too few restaurants may participate to have a program.

Given the above analyses, staff suggest the City further explore a rate based on the commercial leases in Palo Alto or a fraction of the daily parking rate ($25/day). Staff seek Council feedback on a preferred methodology or elimination of certain methodologies.

While the commercial rates are presented based on location, for ease of administration and understanding by the public, staff suggest collapsing the commercial lease rates into one rate for the entire city—instead of having geographic variation. This might be a median or average of the rates across the city, or using the lowest rate ($30/sf) as the starting point.

**Extension of Pilot Program**

As noted in the recommendation, staff request a six-month extension of the pilot program to allow for resolution of outstanding issues with the standards, program permitting and operations plan, development charges, and further engagement with the ARB. If adopted by Council, the attached interim ordinance and resolution will continue the existing temporary program until December 31, 2022. If Council does not adopt this legislation, the pilot parklet program will end on June 30, 2022 pursuant to the existing interim ordinance.

**Policy Implications**

Overall, the permanent parklet program asks the City Council how it wants to allocate the use of public space. Specifically, the permanent parklet program seeks to identify under what conditions, terms, and specifications portions of public streets can be used by private restaurants for outdoor dining. The thoughtful establishment of how to steward the resource of
public space requires careful consideration for many aspects of the program. Many of the policy implications are expressed in the preceding section.

For some residents and merchants alike, the availability of public-on-street parking spaces remains a concern. Some worry that permanent parklets will diminish the availability of parking spaces, making it difficult to park and decreasing customers. These concerns can partially be addressed through the annual application period that can allow city staff, led by the Office of Transportation, to consider the locations of parklets and potential impacts on parking availability. In addition, efforts to ensure public garages and lots can be easily accessed and located can ensure customers and visitors traveling by car can easily park their vehicles.

**Resource Impact**

The permanent parklet program needs dedicated program funding. If the parking space lease rate is set at a competitive rate, parklets will continue to be a part of the local landscape and generate annual revenues that can fund program staff. Staff can ensure ongoing compliance, collect annual fees and charges, provide support to applicants and staff, respond to disruptions or challenges, and ensure the program remains a part of Palo Alto’s vibrancy through ongoing attention. At minimum, a half-time role, funded by program revenue, can carry out these duties.

In order to project revenue generated by the parklet program, staff will need a better understanding of the preferred lease rate (as discussed above). With that information, the City will be better able to estimate how much revenue might be anticipated and when the revenue may be received. This can be used to create a proposal for staffing, which Council can consider and may allocate funds to support.

To date, the pilot parklet program has operated on an interim basis, not charging fees for the permits. In addition, department budgets have absorbed the cost to administer the pilot program. While departments have absorbed the cost, the program requires time. In particular, compliance with pilot program standards has proven a challenge, and requires effort from Public Works, Planning and Development Services, and the City Attorney’s Office.

The City Manager’s Office also allocated $30,000 for contractor support to aid in research and development of the permanent parklet standards and program.

**Timeline**

As noted in the recommendation, staff request a six-month extension of the pilot program to allow for resolution of outstanding issues with the standards, program permitting and operations plan, development charges, and further engagement with the ARB.
Stakeholder Engagement
As of the writing of this report, the Architectural Review Board is providing initial feedback on the standards (at the May 5, 2022 ARB meeting) that will be relayed to the Council via an at-places memorandum. Likewise, staff is conducting a focus group and survey with local businesses that was not concluded in time for inclusion in this report. This information will be provided at-places.

Public Notification
The Palo Alto Municipal Code requires notice of this public hearing be published in a local paper at least ten days in advance. Notice of a public hearing for this project was published in the Daily Post on April 29, 2022.

Environmental Review
Adoption of the attached ordinance and resolution are categorically exempt from CEQA under CEQA Guidelines Sections 15301 (existing facilities) and 15304(e) (minor temporary use of land having negligible or no permanent effects on the environment). Staff will determine the required CEQA analysis of the permanent parklet program going forward.

Attachments:
Attachment10.a: Attachment A - Permanent Parklet Program Standards DRAFT (PDF)
Attachment10.b: Attachment B Interim Ordinance Temporarily Continuing Expansion of Outdoor Dining, Retail, and Other Activites on Public and Private Property (PDF)
Attachment10.c: Attachment C Resolution Continuing the Pilot Parklet Demostration Program as Continued by Reso 9992 (PDF)
Attachment10.d: Attachment D - Review Of Peer City Standards (PDF)
I. Introduction

The City of Palo Alto has developed a Permanent Parklet Program that will allow for parklet installations in eligible areas of Palo Alto.

The following standards outline the requirements for parklet installation including, location, materials, and design. The City of Palo Alto will review all parklet permit applications and will only approve parklets that are able to meet the standards. Due to the unique circumstances of each proposed parklet location, some parklets may require additional review by key departments (as outlined).

All parklets—including installations previously installed under the pilot parklet program—will require a new Permanent Parklet Permit from the City of Palo Alto. Application requirements are outlined in Section IV (A) Submittal Requirements.

II. Glossary

Due to the unique design and placement of parklets, there are several terms with distinct meanings that should be understood in order to implement the standards.

1. Enclosure—Protective barrier that follows the parklet edge.
2. Parklet Edge—The outermost perimeter of parklet area (subtracting required setbacks).
3. Parklet Footprint—The total area with in the parklet edge that can be utilized by a project applicant.
4. Platform—Base of the parklet that is at grade with the sidewalk.
5. Travel Lane—Portion of the street with active automobile traffic.

![Figure 1: Key Terms](image-url)
III. Location and Setback Requirements

A. Location

The location of a parklet is dependent on the eligibility criteria, which varies based on the type of parking space a parklet will occupy (parallel parking spaces, angled spaces, and non-standard spaces).

1. Eligibility
   a. Parklets are only permitted on streets with speed limits of 25 mph or less.
   b. Parklets are generally permitted on streets with a running slope (grade) of five percent or less.
   c. Parklets cannot be installed in any portion of an existing travel lane at any time.
   d. When located near an intersection, parklets must be located at least 20 feet from the rear most boundary of a crosswalk at the nearest intersection of the street corner. Exceptions will be considered on a case-by-case basis.

2. Parallel Parking
   a. For parallel parking spaces, the parklet structure must be set back 48 inches (4 feet) from adjacent marked parking spaces.
   b. It is recommended, though not required, that a parklet consist of at least two contiguous parallel parking spaces.
   c. A parklet’s outer edge shall be 2 feet back from the outer edge of the parking space it occupies. For all parallel parking spaces located on public streets within the City of Palo Alto, this shall be 2 feet from the exterior edge (closest to traffic) of marked parking T’s. This is shown in Figure A.

Figure 2: Dimensions of a Parallel Parking Space Parklet
d. These 2 feet shall be kept clear at all times. The only objects which shall lawfully occupy this space are reflective delineator posts, or their equal.

e. Parallel parking spaces typically measure 8 feet wide by 20 feet long. Given the above mentioned 2 feet offset from the outer edge of the parking space, and the 4-foot setbacks creating buffer space for wheel stops (if no tree wells are present on the adjacent areas), the dimensions of a parklet in one parking space would be 6 feet wide x 12 feet long. (Figure A). If the existing parking stall width is less than 8 (eight) feet, the parklet shall be 2 feet less than the parking stall width.

f. Parallel parking space measurements may vary across the City of Palo Alto. As a result of this variation, some parklets may measure less than 6 feet wide.

g. Variations notwithstanding, in no case shall a parklet be placed within the 2-foot area measured from the outer edge of the parking space.

3. **Angle Parking Spaces**

![Figure 3: Angle Parking Space Parklet Dimensions](image)

1. A parklet in an angle parking space shall consist of at least two contiguous angled parking spaces.

2. A parklet’s outer edge shall be 2 feet back from the outer edge of the existing angled parking space. For angled parking spaces located on public streets within the City of Palo Alto, this shall be 2 feet from the exterior edge (closest to traffic) of the marked parking stall. This is shown in Figure B.

3. **Offset from neighboring parallel space may be need?**

4. **Non-Standard Spaces**

1. A non-standard parking space is an angle or parallel space that does not meet the City of Palo Alto’s standard width or length for parking spaces. For parallel parking spaces, the standard dimensions are _______. For angle parking spaces, standard dimensions are _______.

2. A parklet proposed in angled parking spaces that do not meet the City of Palo Alto’s
standard depth for angle parking spaces may only be eligible for parallel parking space
parklets. Office of Transportation staff, in partnership with Public Works, will review plans
for such sites; this may include a site visit. The additional review will help maximize the
parklet while maintaining an adequate travel lane.

3. For diagonal and perpendicular parking spaces, the edge of the parklet structure must be set
back 36 inches from the adjacent parking space on either side. (This applies to all angle
parking spaces along University Avenue as nearly all are substandard).

4. In the event a restricted area (i.e., loading zone) is being proposed to be used as space for a
parklet, the applicant shall consider the relocation of this restricted area as part of their
design and work with OOT prior to application submittal to determine relocation placement.

B. Parklet Setbacks

5. **Adjacent Setbacks**
   a. All parklets are required to include 4-foot setbacks from adjacent on-street parking spaces.
      This setback shall be delineated by a concrete wheel stop affixed to the street (see ‘Traffic
      Safety’ below).
   b. All parklets are required to include 2-foot setback from adjacent driveways.
   c. The parklet shall be set back at least 9 feet from the adjacent building(s) with no part of the
      parklet extending over the curb or sidewalk.
   d. Parklets are prohibited in front of active driveways, on street curves, or hills where
      horizontal or vertical sight-distance is a safety issue as determined by the Office of
      Transportation.

6. **Setback Area**
   a. The setback may not contain seating or any other objects.
   b. Neither the construction nor operation of the parklet shall interfere with, obstruct, or
      otherwise diminish the adjacent sidewalk and pedestrian path of travel.
   c. **All walkways and sidewalks shall maintain at least 8 (eight) feet clear, unobstructed path
      of travel.**
   d. If an 8 foot clear, unobstructed path of travel cannot be maintained, then sidewalk dining
      may not occur in conjunction with a parklet.

C. Other Location Criteria

1. **Proximity to Utilities and Public Facilities**
   a. Parklets must not block public utilities, bus stops, driveways, telecommunication vaults, or
      other in-ground infrastructure.
      i. Parklets shall not be placed over gas main or gas services due to potential hazards.
   b. Parklets located next to alleys must be set back 5 (five) feet from the outside edge of the
      driveway as measured from the curb face/gutter flowline.
   c. Parklets shall be placed no closer than 50 feet from a bus stop loading zone.
   d. Parklets shall be placed no closer than 15 feet from fire hydrants.
e. Parklets shall be placed no closer than 5 feet from manhole covers to allow for maintenance access.

f. Parklets shall be placed no closer than 5 feet from a storm drain catch basin in each direction. Parklet construction and design must allow access to the catch basin and shall not obstruct catch basin.

g. In the event that a parklet location is in conflict with public infrastructure (i.e., public signage, benches, etc.) the applicant shall work with the Office of Public Works and/or Office of Transportation prior to submittal to determine relocation.

2. Fire Safety

a. No portion of the parklet or associated seating shall block FDC or associated equipment.

b. Business address shall be visible from the street and cannot be fully obstructed by the parklet and associated materials.

3. Street Trees

a. Any portion of the proposed parklet must maintain the following clearances from existing street trees:

b. Horizontal clearance equal to a two-foot radius around the tree well.

c. Vertical clearance of 3 feet measured from the highest point of the parklet (if proposing a parklet with a roof).

d. At no time shall there be materials placed in the tree well area or within City planters.

4. Bike Facilities

b. Bicycle racks or other bicycle facilities shall not be removed, made unusable, or otherwise disturbed or obstructed by the construction of a parklet.

i. Any parklet design that proposes such disruption shall require review by and approval of the Office of Transportation.

d. Applicants are encouraged to incorporate bike parking into their parklet design.

5. Accessibility

1. The sidewalk and parklet path of travel must comply with the appropriate Americans with Disabilities Act (ADA) and California Building Code (CBC) chapter 11B accessibility provisions.

2. The parklet path of travel must comply with CBC chapter 10 exiting requirements.

IV. Parklet Design

The following guidelines describe both the safety and design requirements for parklet applications including standards for:
- Platform
- Enclosure
- Traffic Safety
- Furnishings & Fixtures

A. Platform

1. Structural
a. Parklets shall be constructed with quality materials and shall be of natural durable wood (such as redwood, cedar, etc.), preservative treated wood, or other engineered material suitable for exterior conditions.
b. The parklet platform must support 100 pounds per square foot of live load.
c. All fastening hardware and fasteners adjacent to and into preservative treated wood must be hot-dipped zinc coated galvanized steel, stainless steel, silicon bronze, or copper.

2. Drainage & Ventilation

a. The underside of the platform shall be constructed to allow for seasonal drainage.
b. Adequate cross ventilation shall be installed to allow for the surface to dry within 12–24 hours.
c. Openings under the platform shall be screened with corrosion-resistant material with a maximum one quarter inch mesh.
d. Parklets shall not impede the flow of curbside drainage. The parklet design shall include a 4-1/2"x 8" clearance from sidewalk curb along the entire length of the parklet. Openings at either end of the parklet shall be covered with screens to prevent debris buildup beneath the parklet and in the gutter. The closure 2x decking can be removable for easy access for under platform inspection as needed. See Figure 4 for suggested platform attachment design details.

3. Platform Attachment

![Figure 4: Suggested Platform Attachment Design](image)

[Note: Figure 4 is subject to changes based on discussions with Building and Public Works departments. This image is illustrative only.]

a. The parklet shall be anchored to the City street and/or curb. Any anchoring proposed into the public street will require USA markings and additional staff review. Platform system shall be anchored at maximum 6'-0 apart in each direction to the roadway to avoid movement during an earthquake. See Figure 4 above.
b. The anchor shall be installed perpendicular to the curb.
c. The manner of anchoring shall be through a pre-drilled hole into the curb and a concrete anchor bolt.
d. Limit anchoring to 6-12 inches embedment.

4. Roofs

a. Structural
   i. Complete roof framing plan, which includes horizontal and vertical bracing, is required
to be submitted with structural calculations. A civil and/or structural engineer shall sign the plan and associated calculations.

ii. All connector hardware and fasteners shall be resistant to corrosion and listed as compatible to the framing material.

iii. Roof may be a solid uniform material or open construction (i.e., trellis, pergola, etc.)

iv. Roofs shall not be attached or connected to a building.

v. Roof shall slope toward the street to ensure rainwater drains into the street.

vi. Gutters and rain leaders are required.

vii. Roofs shall not extend over the public sidewalk.

viii. Roof’s outer edges along the travel lane may extend 6 inches beyond parklet footprint at 8 feet or above to allow for attachment of the rain leaders and gutters only.

b. Height

i. The roof shall be a minimum height of 9 feet, but no taller than 12 feet, as measured from the platform grade.

c. Materials

i. rooftop material may be of plywood sheathing, polycarbonate sheets, or sheet metal. Roof framing maybe of one neutral tone such as natural or stained wood, or painted brown, black, beige, or other earth tones.

ii. Fabric roofing is not allowed.

iii. Roof material may be a solid uniform material or open construction (i.e., trellis, pergola, etc.)

iv. All exposed wood is required to be treated for exposure to weather.

5. Design

a. Platform decking materials shall be of one consistent material and be of a neutral tone such as natural or stained wood or painted brown, black, beige, or other earth tones.

6. Accessibility

a. The parklet shall comply with the Americans with Disabilities Act (ADA).

b. The surface of the parklet platform must be flush with the adjacent sidewalk with a maximum gap of one quarter inch and one quarter inch vertical tolerance.

c. A minimum 4-foot-wide accessible path of travel and 5-foot diameter turnaround space must be maintained within the parklet.

d. Any abrupt changes in elevation exceeding 4 inches along an accessible path of travel shall be identified by 6-inch-tall warning curbs.

B. Enclosures

1. Dimensions & Load

a. Parklets are required to include a continuous barrier along the parklet edge to bolster parklet user safety. The barrier shall be located on the outermost edge of the platform on all sides adjacent to the travel lane and the parklet ends. The sidewalk edge of the parklet may be enclosed or open.

b. This continuous enclosure shall include a periodic barrier, which may be planters or other heavy material, along the parklet edge, and when filled with soil, sand, water, or concrete weighs 500 lbs. along the edge perpendicular to traffic and spaced at least every 6 feet along the parklet edge parallel to traffic.
c. The periodic barrier shall measure at least XX [still under deliberation, to be determined] in width, and a height no shorter than 36 inches and no higher than 42 inches measured from the street level.

d. The enclosure must comply with the California Building Code for guardrails, this includes but is not limited to guardrail gaps (smaller than a 4 inch sphere) and height (42 inches).

2. **Design**

   a. Enclosure materials must be high-quality, durable, and non-reflective including but not limited to hardwood, steel, concrete planters, etc.
      a. Materials that are not permitted: Aluminum, particle board, and vinyl.
   b. The continuous enclosure must be a neutral tone such as natural or stained wood, or painted brown, black, beige, or other earth tones, or be made of steel, iron (wrought or cast), or other non-reflective, all-weather proofed metals.
   c. Street facing colors used on the exterior of enclosure must be matte-finish paint or opaque stain.
   d. Parklets shall integrate and/or incorporate vegetation into the enclosure (edge treatment) at least every six (6) feet.
      a. The height of any plants contained within planters in setback or planters serving as a parklet platform enclosure shall not exceed 6”.
      b. Plant material shall not impede or hinder pedestrian and vehicular visibility.
      c. No plants shall have thorns, spikes, or sharp edges.
      d. Poisonous or invasive plants are not permitted.

![Figures above illustrate compliant examples of a parklet enclosure.](image)

C. **Traffic Safety**

1. **Wheel Stops**

   a. When a parklet is adjacent to active parallel parking spaces, a wheel stop must be installed. The wheel stop shall measure 3 feet long by 4 inches high. It shall be constructed of concrete or rubber.
   b. **Affixing Wheel Stops**
      i. Drilled-in Wheel stops: A permittee will need USA clearance to anchor a wheel stop into the road.
   c. **Location**
      i. The wheel stop shall be placed one foot from the curb at the edge of the front parking space.
ii. A wheel stop shall be placed one foot from the curb at the edge of the rear parking space.

iii. Wheel stops shall be placed four feet from the parklet structure.

d. Exceptions

i. Parklets extending the length between two in-street tree wells, as on University Avenue, may omit wheel stops.

2. Reflective Delineators

a. The parklet shall include installation of the California Manual of Uniform Traffic Control Devices (MUTCD) approved delineator posts or flexible bollards.

b. Location

i. Delineator posts shall be surface mounted to the roadway via epoxy and/or glue down methods unless approved otherwise.

ii. Reflective delineators must be installed at the outside corners of the parklet. The channelizers or posts must align with the end of the platform and not encroach on the travel lane.

iii. Additional delineators must be placed every 20 (twenty) feet in the 2 foot buffer zone along the lane of travel—but not in the lane of travel.

c. Dimensions

i. Right side of travel lane - Delineators shall be 42 inches high and white with white reflective bands for use on the right side of a travel lane.

ii. Left side of travel lane – Delineators shall be 42 inches high and be white with yellow reflective bands if used on the left edge of a travel lane.

d. Maintenance

i. Maintenance of the delineator posts shall be the responsibility of the Permit holder.

ii. Permittee shall replace any missing or damaged delineators within 24 hours of a delineator’s failure or with 24 hours’ notice from the City.

Examples of these devices are illustrated in Figures 6 and 7.
3. **Travel Clearance**
   a. Parklets shall provide a minimum 2-foot clearance from the edge of the travel lane (measured from the parking striping adjacent to the travel lane) to ensure safe separation from traffic.

D. **Furnishings & Fixtures**

1. **Materials**
   a. Parklet furnishings and fixtures must be high-quality, durable, and non-reflective including but not limited to: Hardwood, steel, concrete, etc.
      i. Materials that are not permitted: Aluminum, particle board, and vinyl.
   b. Parklet design and materials shall match the colors, textures, and design of the accompanying business storefront.
   c. Parklets shall utilize outdoor grade reflective tape to mark changes in grade.

2. **Power Supply**
   a. Propane is not permitted to be used for heaters.
   b. Electrical power supply to the parklet, including receptacle outlets, shall comply with permanent wiring methods as outlined in the adopted California Electrical code.
c. Applicants must apply and obtain the appropriate electrical permit with a maximum of one conduit per parklet.

d. No power cords or conduits are allowed under the sidewalk. All electrical conduits shall be installed overhead, with a minimum height of 10 feet at the lowest point. Overhead conductors shall be properly sized and supported.

e. Generators are not allowed in association with parklets.

f. Parklet power source shall not be pulled from city sidewalk lighting or supported by trees.

3. Heaters

a. Parklets without Roofs
   i. Electric space heaters are permitted if they are an outdoor approved type, are located in accordance with the manufacturer’s recommendations.
   ii. Heaters must be placed at least 5 feet away from any combustible materials.
   iii. Heaters may not be used or stored under a tent, canopy, or umbrella.
   iv. A fire extinguisher is required to be mounted within sight and have appropriate signage per the Fire Code.
   v. Heaters must maintain at least 6 feet of clearance from any portion of street tree.

b. Parklets with Roofs
   i. Any new electric circuits required for heating and lighting require an electrical permit from the Building Department (see ‘Power Supply’ above). Any electrical equipment must be listed and carry a product certificate for its intended use by a recognized electrical testing laboratory.
   ii. Permanently mounted electric heaters must follow all manufacturer's instructions and applicable code requirements.
   iii. A fire extinguisher is required to be mounted within sight and have appropriate signage per the Fire Code.

4. Lighting

a. Outdoor lighting, such as decorative string lights are allowed if parklet permit holders can connect this lighting to a GFCI-protected branch circuit properly sized to accommodate the additional load.

b. Listed exterior rated extension cords must be sized properly for the anticipated load and not create tripping hazards. Extension cords shall not extend over any part of the sidewalk at grade.

c. Extension cords are not to be a substitute for permanent wiring.

d. If utilized, extension cords shall be installed overhead with a minimum height of 10 feet at the lowest point. No cords can extend under the parklet floor or any floor coverings.

e. The use of electrical adapters and power strips are prohibited. All lighting and extension cords must be rated for exterior use, listed, and carry a product certificate for its intended use by a recognized electrical testing laboratory.

f. Lighting must be LED only.

g. Lighting shall be limited to the parklet area and not encroach into any portion of the public sidewalk.

h. Low Voltage Wiring (such as might be used for speakers, though please note amplified music is not allowed)
   i. All low voltage wiring must be installed per the adopted California electrical code.

5. Umbrellas
a. Permitted Umbrella Types:
   i. Table Umbrella
   ii. Tilting Umbrella
   iii. Off-set/ Cantilever Umbrella

b. No portion of an umbrella shall extend beyond the edge and/or enclosure of the parklet on any side.

c. No umbrella shall obstruct the view from the street between three (3) and eight (8) feet, measured from the street, from any side.

6. Signage

a. Parklet signage is limited to six (6) square feet and shall be limited to the name of the business and shall be non-illuminated and non-reflective. Letters no taller than 15”.

b. Businesses are permitted one (1) sign on their parklet, total.

c. Signs must be affixed to the outer most portion of the parklet enclosure no higher than 36” from the street grade.

d. No form of advertising is permitted to be painted or mounted on any surface or area of the parklet.

e. Any existing parking signs installed adjacent to the parklet must be covered with opaque plastic; such coverage or illegibility shall occur only in manners approved by the City of Palo Alto through its Department of Public Works and/or its Office of Transportation.

7. Seating & Furniture

a. Accessibility
   i. The establishment must provide 5% accessible seating for each type of seating provided (table, booth, etc.) or a minimum of 1 seat per type, whichever is greater, in an outdoor seating area where the slope is no greater than 2% in any direction.
   ii. Such ADA accessible areas shall include a clear path of travel to the seating and a 60” diameter turnaround area.
   iii. Such ADA accessible seating shall be provided at an accessible height which includes:
      i. Table surface between 28 to 34 inches high.
      ii. At least 27 inches of space from the floor to the bottom of the table.
      iii. Knee clearance extends at least 19 inches under the table.
      iv. Total clear floor area of 30 inches by 48 inches per seat.
   iv. Such ADA accessible seating shall be of the same size and appearance as the establishment’s other outdoor seating.

b. Street Furniture
   i. Street furniture including tables, chairs, benches, etc. shall be all-weather, and of a high-quality material.
Figures above illustrate street furniture examples.

8. **Landscape**
   a. Vegetation shall be comprised of native, low-water use, and drought tolerant plants.
   b. No plants shall have thorns, spikes, or sharp edges.
   c. Poisonous or invasive plants are not permitted.

V. **Operational Standards**

9. **Private Control**
   Staff continue to develop language regarding the private control of this area under the terms of the permit.

10. **Alcohol Service**
    a. Parklets that serve alcoholic beverages shall include appropriate fencing or other barriers to delineate the space and adhere to Alcohol Beverage Control (ABC) regulations.
    b. All physical requirements of ABC should be reflected in the design submitted for review.
    c. [Note: the following is still in discussion and a clear process is yet to be determined] A Conditional Use Permit (CUP) Amendment is required to allow alcohol service at a parklet.
    d. A restaurant with existing CUP for alcohol service must submit an application to Planning and Development Services to amend the existing CUP to expand alcohol service to parklet.
    e. The CUP Amendment must be approved before alcohol service is allowed at a parklet.

11. **Site Maintenance**
    a. Parklets shall be maintained free of litter and debris.
    b. The parklet area and adjacent sidewalk shall be scrubbed and mopped to remove any food or drink stains on a daily basis by the permittee.

12. **Hours of Operation**
    a. The parklet shall adhere to the same approved hours of operation as the associated business.
    b. Note: In the CN or CS zone districts, a CUP is needed to operate/activities between the hours of 10:00 p.m. and 6:00 a.m. and approval conditions for operations during these hours are to ensure the operation is compatible with the abutting (or within 50 feet of) residential property.

VI. **PERMIT APPLICATION REQUIREMENTS**

A. **Submittal Requirements**

1. **Site Plan**—Site plan shall be drawn to scale on 11 x 17 tabloid paper, include all pertinent dimensions and the following information:
   a. Location of the business frontage
   b. Dimensions of the parklet platform
   c. ADA accessibility measurements
   d. Setbacks from adjacent parking spaces and the adjacent traffic lane
e. Locations of traffic protection improvements including wheel stops, reflective delineators, etc.
f. Location of public utilities including any manhole covers, gutter drains, fire hydrants, and FDCs, light poles, etc. (and distances to parklet)
g. Any adjacent installations on the sidewalk including parking meters, utility boxes, street signs, bike racks, street furniture, etc. (and distances to parklet)
h. Existing parking space striping
i. Crosswalks, bus stops, driveways (and distances to parklet)
j. Width of sidewalk
k. Planters (if applicable)

2. Elevations
   a. Elevation drawing showing the following information:
   b. Height and design of platform railings/guards or edge buffers
   c. Height and design of roof (if applicable)
   d. Heating, lighting, other electrical equipment
   e. Power connection (show distance from ground to overhead wire)
   f. Storm water drainage
   g. Cross-section drawing of parklet

3. Construction Drawing/Calculation
   a. Structural drawings
   b. Structural calculations (if applying for parklet with roof)
   c. heating, lighting, other electrical equipment
d. electrical power connection/source

4. Pictures of proposed site—The application should include at least 3 photos showing existing built parklet, if applicable, the proposed parking space(s) converted into a parklet, adjacent sidewalk and store frontage

5. List of all materials and equipment proposed
   a. Materials palette showing the following information:
      i. Proposed materials for platform
      ii. Proposed materials for railings or edge buffers
      iii. Proposed furnishings
      iv. Roof material (if applicable)
   b. Equipment sheet including:
      i. Image of equipment
      ii. Any manufacturer instructions
   c. Planters, including dimensions and weight.
   d. Type of plants

6. Parklet Information:
   a. Number of parking spaces requested
   b. Perpendicular or angled spaces
   c. Color of curb
d. Proposed use of parklet
e. Business hours of operation
f. Parklet Designer/Architect/Engineer/Construction Firm contact (if applicable)
g. Signage (if applicable)

7. Business Information
   a. Business Address
b. City of Palo Alto Business License Number

8. Business Owner Information
9. Property Owner Information (if different than applicant)
10. Insurance Documents
11. Letter(s) of Support - If the proposed parklet extends beyond the applicant’s storefront, the applicant shall obtain letters of support from the neighboring ground-floor building owner(s) and tenant(s). [Draft template to be provided, still being drafted by staff].
12. Indemnity Acknowledgement

B. Failure to Maintain

A parklet sponsor who fails to properly and sufficiently maintain the cleanliness, safety, and accessibility of their parklet may be subject to violations and fines. If maintenance issues are not resolved, the City may revoke the encroachment permit and the parklet sponsor may be required by the City to remove the parklet at their own expense.

C. Utility Maintenance & Public Safety

Because a parklet may sit atop buried utilities, there may be instances where a parklet will need to be removed to access a utility beneath it. In the event of necessary utility maintenance or the unlikely event of a utility failure such as a gas leak or water main break that threatens public safety, the City or utility owner may remove parklets with little or no notice. Parklet sponsors are responsible for the cost of re-installing and restoring any damage to the parklet.

In instances of advanced notice (such as street repaving, planned maintenance, etc.), the parklet sponsor may need to remove and reinstall the parklet at their sole expense. If the sponsor cannot remove the parklet, the City will remove the parklet.

D. Parklet Removal

If for some reason the parklet sponsor decides no longer wants to maintain a parklet, the parklet sponsor is responsible for notifying the City and removing it at the parklet sponsors’ own expense. Immediately upon removal the parklet area shall be cleaned and restored to its previous condition to the satisfaction of the City.

E. Permit Fees, Permit Charges, and Deposit

[Note: Fee methodology for annual or monthly leasing fee is still to be determined in addition to any resulting fee for ongoing program management].
Ordinance No. ____

Interim Ordinance of the Council of the City of Palo Alto Temporarily Continuing
the Expansion of Outdoor Dining, Retail and Other Activities on Public and
Private Property and Relaxing Regulations Regarding Onsite Parking, On-Sale of
Alcohol, Design/Architectural Review, Permit Fees, and Alcohol Consumption in
Public Places, All to Facilitate Such Outdoor Use

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

A. On June 23, 2020, the City Council adopted Ordinance 5500, an emergency ordinance, in
response to COVID-19 and its effects on local businesses. At that time and since then,
county and state regulations related to COVID-19 have limited or curtailed many indoor
activities, including dining, bars, retail, performances, and other recreational uses.

B. In June 2021, the City Council adopted Ordinance 5526, which amended and restated
Ordinance 5500 on a non-emergency basis (among other changes). Ordinance 5526 will
sunset on December 31, 2021 unless amended by the City Council.

C. On November 8, 2022, the City Council adopted Ordinance 5533, which amended and
restated Ordinance 5526 with a new sunset date of June 30, 2022 to allow the provisions
of that ordinance to continue.

D. The City Council now desires to amend and restate Ordinance 5533 to extend its
provisions through December 31, 2022.

SECTION 2. City Manager Authorization

The City Manager or his or her designee(s) may promulgate guidelines and implementing
regulations for the uses and programs described in this Ordinance as long as such regulations do
not conflict with this Ordinance.

SECTION 3. Fee Waivers for Encroachment Permits and Parking Space Closures

A. The permit fees set forth in the Municipal Fee Schedule are temporarily waived for
applications for encroachment permits under Palo Alto Municipal Code Section 12.12.010
and Section 12.12.020, as modified by this Ordinance, to place structures and equipment
in the public right-of-way (including closed streets and sidewalks) for purposes of outdoor
dining and outdoor retail sales and display of wares.
B. The parking space closure fee in the Municipal Fee Schedule collected by the Department of Planning and Development Services is temporarily waived for the use of a parking space(s) on-street or in a parking lot for purposes of outdoor dining and outdoor retail sales and display of wares as authorized through an encroachment permit, license, or agreement with the City.

SECTION 4. Modified Review Process for Commercial Sidewalk Encroachment Permits

Notwithstanding contrary provisions of PAMC Section 12.12.020, permits may be granted for commercial sidewalk encroachments for outdoor retail sales and display areas and outdoor eating areas. Permits for these purposes shall not be required to undergo and complete design review by the Planning Department described in subsection (d) of Section 12.12.020. Except as expressly modified herein, the provisions of Section 12.12.020 shall apply to commercial sidewalk encroachments.

SECTION 5. Eating and Drinking Establishments

Eating establishments, and drinking establishments may temporarily relocate some or all of their existing indoor seating capacity to outdoor seating capacity, as follows:

A. Location. Outdoor eating areas may be placed in one or more of the following areas:

1. Public streets temporarily closed by the City of Palo Alto, through issuance of an encroachment permit under PAMC Section 12.12.010;

2. Sidewalks through issuance of an encroachment permit under PAMC Section 12.12.020, as modified by Section 4 of this Ordinance;

3. In on-street parking spaces approved for use as temporary parklets, in accordance with the Pilot Parklet Demonstration Project as first approved by Council Resolution No. 9909 and continued by subsequent resolutions;

4. Surface parking lots that currently provide required onsite parking for the eating/drinking establishment, through issuance of an approval by the Director of Planning, or his or her designee, as described in subsections C and D of this Section, below;

5. Other outdoor areas on the eating/drinking establishment site not originally permitted for outdoor seating in the establishment’s approved site plan or planning entitlement (such as landscaped areas), through issuance of an approval by the Director of Planning, or his or her designee, in accordance with subsections C and D of this Section, below; and

6. In other areas that the Council identifies by resolution or ordinance.

1. Notwithstanding the parking requirements applicable to eating/drinking establishments in Title 18 (Zoning) of the PAMC or in individual planning entitlements or approvals for eating/drinking establishments, an eating/drinking establishment may place outdoor eating areas in its parking lot, so long as at least half of the parking spaces on the subject site remain available for use by vehicles. If the establishment’s parking lot has ten or fewer parking spaces, up to 100 percent of the parking lot may be used for outdoor eating, subject to review and approval of the Planning Director or his or her designee.

2. Notwithstanding the parking requirements applicable to shopping centers and their tenant businesses in Title 18 (Zoning) of the PAMC or in individual planning entitlements or approvals for shopping centers or their tenant businesses, a shopping center with an eating/drinking establishment tenant(s) may place outdoor eating areas for such tenant business(es) in the shopping center parking lot, so long as at least half of the parking spaces on the subject site remain available for use by vehicles.

C. Application. An application in a form approved by the Director of Planning shall be submitted to the Planning and Development Services Department to relocate some or all of an eating/drinking establishment’s permitted indoor restaurant seating to outdoor seating in privately-owned areas on the eating/drinking establishment site not originally permitted for outdoor eating. The Director of Planning is authorized to establish submittal requirements and procedures. Temporary Use Permits (TUP) under PAMC Section 18.42.050 may be utilized for this purpose. A TUP issued for this purpose may be valid for a specified period longer than 45 days, notwithstanding subsection (d) of Section 18.42.050. The Planning Director may extend a TUP issued prior to the effective date of this Ordinance to be valid beyond 45 days.

D. Seating Layout Review. A Seating Layout Review is required to relocate some or all of an eating/drinking establishment’s permitted indoor seating to outdoor seating in privately-owned areas on the eating/drinking establishment site not originally permitted for outdoor eating. The Seating Layout Review shall be conducted by a transportation planner, planner, and/or fire inspector who will review and either approve or require modifications to the proposed outdoor seating layout based on the following criteria:

1. Seating layout does not create a safety risk and adequate pedestrian and vehicular separation is maintained, including with movable barriers as appropriate where outdoor seating is to be placed in parking lots or on-street parking spaces.

2. Seating layout accommodates appropriate vehicle and pedestrian circulation and maintains adequate paths of travel and complies with accessibility requirements of the Americans with Disabilities Act.
3. Any tents must comply with fire codes and Palo Alto Fire Department issued standards for tents, and safety standards set forth by the National Fire Protection Association for fire-resistant tents and must include an affixed manufacturer’s label stating the tent meets NFPA requirements. A State Fire Marshal seal on the tent or a certificate is needed to prove treatment.

4. Any heaters must comply with fire codes.

5. An adequate and visible barrier is placed that clearly separates the retail area from the parking area and provides sufficient protection for patrons. Adequacy shall be defined in standards and guidelines issued by the Director of Planning.

6. Other requirements established in the standards and guidelines issued by the Director of Planning.

E. **Fee.** No fee will be charged for submittal and review of the Application and for conducting a Seating Layout Review.

F. **Occupancy.** Total seating occupancy (including all indoor and outdoor seating) shall not exceed the overall occupancy for which the restaurant is permitted.

G. **Alcohol Service.** Establishments that are allowed by the City to serve alcohol for onsite consumption by issuance of a conditional use permit ("CUP") as required by PAMC Section 18.42.090 or as a legal nonconforming use, and that both have an on-sale license from the Department of Alcoholic Beverage Control ("ABC") and are duly authorized by ABC to serve alcohol in outdoor areas, shall be allowed to serve alcohol for onsite consumption in such outdoor areas, notwithstanding any prohibition on outdoor alcohol service or consumption in the PAMC or planning entitlement issued under Title 18 (Zoning) of the PAMC. During the effective period of this Ordinance, establishments that meet the preceding requirements may expand their footprint to outdoor areas without an amendment of the CUP, notwithstanding PAMC Section 18.42.090(c). Outdoor alcohol service shall be in full compliance with ABC regulations, as amended.

H. **No Architectural Review.** Notwithstanding PAMC Sections 18.77.077 and 18.76.020, architectural review shall not be required for proposed outdoor eating areas or signage related to such areas during the effective period of this Ordinance.

**SECTION 6. Retail Establishments**

Retail establishments may temporarily relocate some or all of their existing customer-accessible square footage to outdoor spaces as follows:
A. **Location.** Outdoor retail sales and display areas and outdoor eating areas may be placed in one or more of the following areas:

1. Public streets temporarily closed by the City of Palo Alto, through issuance of an encroachment permit under PAMC Section 12.12.010;

2. Sidewalks through issuance of an encroachment permit under PAMC Section 12.12.020, as modified by Section 4 of this Ordinance;

3. Surface parking lots that currently provide required onsite parking for the retail establishment, through issuance of an approval by the Director of Planning, or his or her designee, as described in subsections C and D of this Section, below;

4. Other outdoor areas on the retail establishment site not originally permitted for retail sales and display or dining in the retail establishment’s approved site plan or planning entitlement (such as landscaped areas), through issuance of an approval by the Director of Planning or his or her designee in accordance with subsections C and D of this Section, below; and

5. In other areas that the Council identifies by resolution or ordinance.

B. **Use of Private Parking Lots – Temporary Reduction of Parking Requirements.**

1. Notwithstanding the parking requirements applicable to retail establishments in Title 18 (Zoning) of the PAMC or in individual planning entitlements or approvals for retail establishments, a retail establishment may conduct outdoor retail sales and display and may place outdoor eating areas in its parking lot, so long as at least half of the parking spaces on the subject site remain available for use by vehicles. If the establishment’s parking lot has ten or fewer parking spaces, up to 100 percent of the parking lot may be used for outdoor dining/retail, subject to review and approval of the Planning Director or his or her designee.

2. Notwithstanding the parking requirements applicable to shopping centers and their tenant businesses in Title 18 (Zoning) of the PAMC or in individual planning entitlements or approvals for shopping centers or their tenant businesses, a shopping center with a retail establishment tenant(s) may place outdoor retail sales and display areas and outdoor eating areas for such tenant business(es) in the shopping center parking lot, so long as at least half of the parking spaces on the subject site remain available for use by vehicles.

C. **Application.** An application in a form approved by the Director of Planning shall be submitted to the Planning and Development Services Department to relocate some or all of a retail establishment’s customer-accessible square footage to outdoor retail sales and display in privately-owned areas on the retail establishment site not originally permitted.
for outdoor retail sales and display. The Director of Planning is authorized to establish 
submittal requirements and procedures. Temporary Use Permits (TUP) under PAMC 
Section 18.42.050 may be utilized for this purpose. A TUP issued for this purpose may be 
valid for a specified period longer than 45 days, notwithstanding subsection (d) of Section 
18.42.050. The Planning Director may extend a TUP issued prior to the effective date of 
this Ordinance to be valid beyond 45 days.

D. **Merchandise or Seating Layout Review.** A Layout Review is required to relocate some or 
all of an retail establishment’s permitted indoor customer-accessible square footage to 
privately-owned areas on the retail establishment site not originally permitted for retail. 
The Layout Review shall be conducted by a transportation planner, planner, and/or fire 
inspector who will review and either approve or require modifications to the proposed 
retail layout based on the following criteria:

1. The placement of the merchandise, displays, or other items does not create a safety 
   risk and adequate pedestrian and vehicular separation is maintained, including with 
   movable barriers as appropriate where outdoor seating is to be placed in parking lots 
or on-street parking spaces.

2. The layout accommodates appropriate vehicle and pedestrian circulation and 
maintains adequate paths of travel and complies with accessibility requirements of 
   the Americans with Disabilities Act.

3. Any tents must comply with fire codes and Palo Alto Fire Department issued standards 
   for tents, and safety standards set forth by the National Fire Protection Association 
   for fire-resistant tents and must include an affixed manufacturer’s label stating the 
   tent meets NFPA requirements. A State Fire Marshal seal on the tent or a certificate 
   is needed to prove treatment.

4. Any heaters must comply with fire codes.

5. An adequate and visible barrier is placed that clearly separates the retail area from 
   the parking area and provides sufficient protection for patrons. Adequacy shall be 
   defined in standards and guidelines issued by the Director of Planning.

6. Other requirements established in the standards and guidelines issued by the Director 
   of Planning.

E. **Fee.** No fee will be charged for submittal and review of the Application and for conducting 
a Layout Review.

F. **No Architectural Review.** Notwithstanding PAMC Sections 18.77.077 and 18.76.020, 
architectural review shall not be required for proposed outdoor retail areas or signage 
related to such areas during the effective period of this Ordinance.
SECTION 7. Compliance with Other Regulations, Orders and Approvals

The uses of public and private property allowed in this Ordinance shall be conducted in compliance with any applicable state or county mandate (including executive orders and health orders), this Ordinance, Resolution No. 9909 and its successors, and all other local and state regulations, orders, and approvals, as applicable (collectively, “Applicable Law”). Any approval, allowance or permit to conduct such temporary outdoor use(s) shall be subject to revocation by the issuing City official if the use is conducted in violation of Applicable Law, or poses a threat to public health, safety or welfare.

SECTION 8. No Vested Rights

The outdoor uses of public and private property allowed in this Ordinance are temporary and shall be terminated upon the earlier of the date stated in the applicable permit/approval or the expiration of this interim Ordinance, unless earlier revoked by the City Manager or other authorized official (or their designee) or terminated by action of the City Council. The City may discontinue one or more, or all, of the allowed outdoor uses at any time if the City Manager or designee determines that the public health, safety or welfare warrant such action. Nothing in this Ordinance shall establish a vested right.

SECTION 9. Suspension of Prohibition on Alcohol Consumption in Lytton Plaza and Cogswell Plaza

Notwithstanding PAMC Sections 22.04.330 and 22.04.331, the City Manager is authorized to suspend the prohibition on consumption of alcoholic beverages in the parking lots adjacent to Lytton Plaza and Cogswell Plaza.

SECTION 10. Use of City Parking Lots for Reopening Activities

A. The City Manager, or his or her designee (“City Manager”), is authorized to permit outdoor dining, retail and other activities necessary to facilitate the reopening of businesses, in public parking lots owned by the City, subject to the City Manager’s adoption of rules, regulations, guidelines, and standards for such use (“Regulations”), and publication of such Regulations on the City’s website. Use of parking lots, or portions thereof, by a business shall require a license or other agreement, including an agreement to indemnify and hold harmless the City, and provision of insurance.

B. The City Manager is authorized to waive any fee in the Municipal Fee Schedule associated with the temporary use of parking areas for the purposes identified in Section A above.

C. Notwithstanding PAMC Section 9.04.020, the City Manager is authorized to suspend the prohibition on consumption of alcoholic beverages in any City owned parking lot.

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SECTION 11.  Personal Services, Indoor Recreation and Other Uses

The authorized outdoor uses of public and private spaces authorized in this Ordinance may be applied to personal services, indoor recreation and other uses. Prior to authorizing these additional activities to occur, the City Manager, or his or her designee (“City Manager”), shall adopt rules, regulations, guidelines, and standards for these uses, and publish them on the City’s website.

SECTION 12.  Severability

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 13.  Environmental Review

The Council finds that the Ordinance is categorically exempt from CEQA under CEQA Guidelines Sections 15301 (existing facilities) and 15304(e) (minor temporary use of land having negligible or no permanent effects on the environment).

SECTION 14.  Effective Date

This Ordinance shall be effective 31 days after adoption and shall remain in effect until December 31, 2022 unless otherwise modified, repealed or extended by the City Council.

SECTION 15.  Uncodified

This Ordinance shall not be codified.

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SECTION 16. Supercedes Ordinance 5533.

As of the effective date of this Ordinance, this Ordinance shall supercede Ordinance 5533, and any conflict shall be resolved in favor of this Ordinance.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

__________________________________________  __________________________________________
City Clerk                                  Mayor

APPROVED AS TO FORM:

__________________________________________  __________________________________________
Assistant City Attorney                     City Manager

__________________________________________
Director of Public Works

__________________________________________
Director of Planning & Development Services
Resolution No. _____
Resolution of the Council of the City of Palo Alto Continuing the Pilot Parklet Demonstration Program as Continued by Resolution 9992

RECITALS

A. In June, 2020, the City Council adopted Resolution 9909 in response to COVID-19 and its effects on local businesses. Resolution 9909 created a Pilot Parklet Demonstration Program and also permitted the City Manager to temporarily close certain streets. At that time and since then, county and state regulations related to COVID-19 have limited or curtailed many indoor activities, including dining, bars, retail, and other recreational uses.

B. On June 7, 2021, the City Council adopted Resolution 9962, which amended and restated Resolution 9909 on a non-emergency basis (among other changes).

C. On October 18, 2021, the City Council adopted Resolution 9992, which amended and restated Resolution 9962 to continue the pilot program until June 30, 2022.

D. The City Council now intends to extend the pilot program through December 31, 2022 through this Resolution.

E. This Resolution, like its predecessors, implements a temporary parklet program authorized by Ordinance 5526 and its successor ordinances.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF PALO ALTO RESOLVES AS FOLLOWS:

SECTION 1. Findings and Declarations. The Council hereby adopts the above Recitals as findings of the Council.

SECTION 2. Pilot Parklet Program and Design Requirements. The City Council hereby approves the temporary use of on-street parking spaces in Palo Alto for parklets under the Pilot Parklet Demonstration Program as first described Resolution 9909 and continued by its successor resolutions.

A. The Director of Public Works/City Engineer, or his or her designee (the “Director”), is delegated the authority to exercise their discretion to approve specific parklet locations, plans, designs, materials, and standards, and amendments thereto, consistent with the Parklet Standards and Requirements. The plans and designs shall be signed by the
Director. Any existing parklet locations, plans, designs, materials, standards, and amendments to the Parklet Standards and Requirements approved by the Director under the authority of Resolution 9909 and/or its successors shall remain valid under the authority of this Resolution unless otherwise amended, rescinded, or modified in any other way.

B. The Director is authorized to issue implementing guidelines and regulations for the Pilot Parklet Demonstration Program, and to approve amendments to the Parklet Standards and Requirements as the Director in his or her discretion deems necessary and proper. Any existing guidelines, regulations, or amendments issued by the Director under the authority of Resolution 9909 and/or its successors shall remain valid under the authority of this Resolution unless otherwise amended, rescinded, or modified in any other way.

C. A valid encroachment permit issued under Palo Alto Municipal Code Section 12.12.010 is required to operate a parklet under this Program. The Director may approve a parklet application through issuance of an Encroachment Permit, subject to the general regulations in Palo Alto Municipal Code Section 12.12.010 and the following criteria and procedures:

1. **Use.** Parklets shall be restricted to outdoor eating areas of eating establishments.

2. **Application and Review.** A complete application for a parklet encroachment permit shall be reviewed by City staff for a determination as to whether such application complies with the Parklet Standards and Requirements. The application shall include all information necessary for a determination on the application including, but not limited to a certificate of insurance and a hold harmless and indemnity agreement in favor of the City shall be submitted in accordance with the provisions of Palo Alto Municipal Code Section 12.08.120. The Director shall grant or deny the application.

3. **Conditions.** Conditions of approval may be imposed on parklet encroachment permits to maintain the public health, safety and welfare.

4. **Revocation.** The Director may revoke a parklet encroachment permit if he or she determines that the conditions of the permit, the provisions of this Resolution, or any applicable regulation, ordinance, or provision of the Municipal Code are being violated, or if the municipal use of the
area is required for reasons of public health, safety, welfare or convenience. The permittee shall be notified of an intent to revoke the permit and shall be entitled to a hearing before the Director whose decision shall be final.

5. **Existing Permits.** Any parklet encroachment permit issued under the authority of Resolution 9909 and/or its successors shall remain valid under the authority of this Resolution unless such a permit is otherwise amended, revoked, or modified in any other way.

**SECTION 3.** **Rules and Regulations.** In addition to the authority given to the Director of Public Works and his or her designee in Section 2 of this Resolution, the City Manager is authorized to enact any rule or regulation or implementing guidelines to effectuate and implement this Resolution.

**SECTION 4.** **Compliance with Other Regulations, Orders and Approvals.** The uses of public and private property allowed in this Resolution shall be conducted in compliance with any applicable state or county mandate (including executive orders and health orders), and all other local, county, and state regulations, orders, and approvals, as applicable (collectively, “Applicable Law”). Any approval, allowance or permit to conduct such temporary outdoor use(s) shall be subject to revocation by the issuing City official if the use is conducted in violation of Applicable Law, or poses a threat to public health, safety or welfare.

**SECTION 5.** **No Vested Rights.** The uses allowed in this Resolution are temporary and shall be terminated upon the earlier of the date stated in the applicable permit/approval or the expiration of this Resolution, unless earlier revoked by the City Manager or other authorized official (or their designee) or terminated by action of the City Council. The City may discontinue one or more, or all, of the allowed uses at any time if the City Manager or designee determines that the public health, safety or welfare warrant such action. Nothing in this Resolution shall establish a vested right.

**SECTION 6.** The Council finds that this Resolution is categorically exempt from CEQA under CEQA Guidelines Sections 15301 (existing facilities) and 15304(e) (minor temporary use of land having negligible or no permanent effects on the environment).

**SECTION 7.** This Resolution supersedes Resolution 9992. Any conflict between this Resolution and Resolution 9992 shall be resolved in favor of this Resolution.
SECTION 8. This Resolution shall become effective immediately upon approval and shall remain in effect until December 31, 2022 unless otherwise modified, repealed or extended by the City Council.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

__________________________   _____________________________
City Clerk      Mayor

APPROVED AS TO FORM:

__________________________   _____________________________
Assistant City Attorney    City Manager

_____________________________
Director of Public Works

_____________________________
Director of Planning and Development Services
Review of peer city jurisdictions have provided an initial framework for the type and level of guidelines proposed for the City of Palo Alto. In general, most cities that have transitioned to permanent parklet programs do not have heavily prescriptive design guidelines, focusing the majority of guidelines on standards for safety.

The table below summarizes the full table provided in Attachment XX which details the jurisdictions reviewed and their standards for key topics.

<table>
<thead>
<tr>
<th>JURISDICTION</th>
<th>PROGRAM TYPE</th>
<th>ENCLOSURE</th>
<th>COVERINGS</th>
<th>MATERIALS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Los Altos</td>
<td>Pilot Program/Recommended guidelines for when Public Health orders lift</td>
<td>Have edge buffers that will enclose the space on all sides, except the sidewalk Dining area will be protected with 500-pound wine barrels maximum of 7.5 feet apart</td>
<td>--</td>
<td>Natural materials are strongly encouraged Wood, stone, brick can provide warmth at storefronts and enhance the feeling of village scale and character</td>
</tr>
<tr>
<td>Los Gatos</td>
<td>Semi-Permanent Parklet Program</td>
<td>Choice between three (3) pre-approved railing designs</td>
<td>Choice between three (3) pre-approved shade coverings: movable umbrella, fabric sail shade, retractable fabric solar shade</td>
<td>Concrete planters, concrete slab or stamped and stained concrete slab (brick-like) or concrete with red bricks to match sidewalk Tub steel frame railing or custom brushed stainless steel cable railing or custom green railing to match streetscape, string lights, fabric sail shade or slide on wire fabric solar shade</td>
</tr>
<tr>
<td>Pleasanton</td>
<td>Permanent Program</td>
<td>Parklets must incorporate a continuous rigid barrier from the platform to the street (e.g., guardrails or another barrier such as planters and railings). Ropes and other non-ridged parklet delineation is not permitted. It is the applicant’s responsibility to ensure structural integrity and</td>
<td>Temporary pop-up tents/canopies and temporary or permanent roof structures are not permitted. However, umbrellas are allowed. Umbrellas must be properly secured. Umbrella colors are limited to a solid neutral color (i.e., no stripes, dots, bright or fluorescent colors,</td>
<td>Materials must be high quality, durable, and non-reflective. The predominant material/cladding on the street facing side of the parklet must be wood or other natural material.</td>
</tr>
<tr>
<td>Redwood City</td>
<td>Temporary Program</td>
<td>Temporary barriers not exceeding three (3) feet in height shall be placed in a safe manner around the Outdoor Activity area</td>
<td>Tent Permit required for tents or canopies over 400 sq. ft. Only one side of the tent or canopy can be closed at any given time</td>
<td></td>
</tr>
<tr>
<td>San Mateo</td>
<td>Permanent Program</td>
<td>Must withstand 250 lbs of force Edge buffers: the parklet should have an edge as a buffer from the street (can be planters, railing, cabling, or some other closure) Openings in rails must prevent passage of 4-inch sphere Height of railings/enclosures shall not exceed 36 inches from parklet platform floor to the top of the railing. If higher wind barriers are desired,</td>
<td>Roofs, trellises, and tent shade structures will not be allowed after April 30, 2022. Platforms must be constructed from durable materials that can withstand wear and tear of elements. Pouring concrete for parklet platforms is not allowed. You may use concrete pavers on a platform structure instead. Surface materials must be textured or treated with a non-skid coating to ensure a safe walking surface. Loose particles such as sand or loose stone, are not permitted</td>
<td></td>
</tr>
<tr>
<td>Walnut Creek</td>
<td>Temporary Program</td>
<td>Enclosures are clearly defined using barriers to help create a comfortable and separated space for patrons in the Pop-Up. Heavyweight barriers shall be placed no more than 6 feet apart and be no taller than 2 feet. They must weigh a minimum of 250 pounds each. The most common heavyweight barrier in use are planters.</td>
<td>Umbrellas are the only type of covering or canopy that are allowed on a sidewalk, sidewalk extension, or City plaza, and are only permitted if the City has previously approved the Encroachment.</td>
<td>Heavyweight Barrier options: concrete jersey barrier, plastic traffic barrier, granite or concrete blocks, parking stops, wood barriers, planters. Lightweight barriers: Metal railing, plastic netting, rope, lattice, bamboo curtains, etc. Surface treatments: back floor mats, chalk paint, chalk, astroturf, sod, cornstarch paint.</td>
</tr>
</tbody>
</table>

The proposed standards (detailed above) aim to strike a balance between flexibility and consistency to allow for streamlined implementation and quality aesthetic.
Title: Approve and Authorize City Manager to Execute Non-Binding Letter of Intent with First Tee Silicon Valley Towards Establishing a Public Private Partnership for Practice Facility Infrastructure Improvements at the Baylands Golf Links and Long-Term Facility Use Access for the First Tee Silicon Valley’s Youth Development Teaching Program

From: City Manager

Recommendation
Staff recommends that City Council:

A. Approve a Letter of Intent (Attachment A) towards establishing a Public Private Partnership between the City of Palo Alto and First Tee Silicon Valley for practice facility infrastructure improvements at the Baylands Golf Links and long-term facility use access for First Tee Silicon Valley’s youth development teaching program; and

B. Direct staff to negotiate agreements for infrastructure improvements and a public private partnership for facility access at the Baylands Golf Links.

Background
The First Tee is a national non-profit 501(c) program providing youth educational programs that build character, instill life-enhancing values, and promote healthy choices through the game of golf. In 2009, the local First Tee chapter, the First Tee of San Jose, began a collaboration with the Community Services Department (CSD) by offering a pilot program teaching life skills to youth at the Palo Alto Municipal Golf Course. The pilot program was initiated with a CSD co-sponsorship providing the golf course as a teaching and practice facility.

Participants in the pilot program participated with a diverse group of people and learned to resolve conflicts, build confidence, and set goals. This program focused on nine core values of honesty, integrity, sportsmanship, respect, confidence, responsibility, perseverance, courtesy, and judgment.

Upon establishment of the pilot program in 2009 the First Tee of San Jose and its successor organization, First Tee Silicon Valley (FTSV) and CSD have continued the collaboration. In 2013, FTSV was incorporated and granted tax exempt non-profit status by the Internal Revenue Service. FTSV assumed the program of its predecessor and has actively taught classes each
season since the pilot program except during the golf course’s closure for a full course renovation in 2016. Upon reopening as the Baylands Golf Links in 2018, FTSV resumed their youth development program.

Currently, FTSV teaches eight-week sessions for three to four days a week. The program classes are held in the afternoon and mostly use practice facilities such as lawn areas, a practice putting green, a practice chipping green, and the driving range. Occasionally, participants play on course as they progress in their skill learning.

Annually, FTSV teaches over 1,100 youth at a few golf courses in the region and has an outreach program reaching 14,000 youth in schools and local communities. Youth participants range between 2nd grade through 12th grade. Participants of all backgrounds participate in the program, and financial assistance is offered by FTSV to ensure opportunities for all youth. FTSV programs serve a large region, extending as far south as Hollister in San Benito County and as far north as San Mateo in San Mateo County. Teaching facilities and courses are located at Gavilan College in Gilroy, Rancho del Pueblo Golf Course in San Jose, and the Baylands Golf Links. At the Baylands Golf Links, approximately 40% of the FTSV participants are Palo Alto youth.

The collaboration has allowed for FTSV and CSD to deliver youth services to the community. Due to the success of the program and a desire to expand its program reach in Palo Alto and the Mid-Peninsula, FTSV is proposing a formal Public Private Partnership (PPP) with the City. FTSV seeks further youth development opportunities, infrastructure improvements to practice and teaching facilities, and long-term usage access at the Baylands Golf Links for an initial 15-year term with mutual renewals towards a 50-year partnership of non-exclusive usage.

Discussion
The location of the Baylands Golf Links is ideal for the regional population which FTSV seeks to serve. However, the practice facilities require modification and improvements to be appropriate for expanding FTSV’s programs. FTSV proposes investing in facility infrastructure improvements to allow for safely using practice areas at the golf course. At present, the youth practice and short game practice areas adjacent to both sides of the driving range remain underutilized and mostly closed due to the trajectory of driving range balls being higher than the height of the current retention netting creating a hazard for use. With the proposed infrastructure improvements raising the height of the netting and poles, the underutilized practice areas would be available for programs of FTSV, the Community Services Department, and the contracted course operator.

Additional ball retention nets would be installed at the youth practice area to prevent balls from entering the adjacent trail and Embarcadero Road. Lastly, there would be some modification of the turf and contours of the youth practice area for the teaching needs of FTSV. A visual depiction of the practice areas is in Figure A contained in Attachment B.
FTSV is proposing to fundraise the cost for the initial facility infrastructure improvements (estimated to be $4.2 million in 2019) and seeks a Letter of Intent (LOI) to substantiate with potential donors the purpose of fundraising and the City’s acknowledgment of working towards a long-term partnership. The ongoing maintenance of these improvements is expected to be negotiated as part of the partnership discussion.

The LOI recognizes that the City and FTSV wish to collaborate on a long-term Public Private Partnership regarding infrastructure improvements to practice facilities and securing non-exclusive facility use access for FTSV’s youth development program. Staff is proposing an initial term of 15 years as indicated in the LOI. The 15 years is in alignment with the anticipated lifespan of the netting. Subsequent renewals towards a 50-year partnership are to be mutually agreed upon with a cost share of future infrastructure repairs and improvements.

As an essential element of the partnership proposal is fundraising by FTSV, which according to FTSV will only be successful if they can substantiate the City’s position as a partner, staff has prepared a non-binding Letter of Intent (LOI) to facilitate discussion towards an agreement and partnership. Staff requests that City Council approve the LOI and direct staff to negotiate an agreement with FTSV and to return to City Council within 18 months for review and approval.

Should a partnership and infrastructure improvements allow for successful expansion of youth programming, FTSV has a larger vision for further investments in additional facility improvements including covered driving range stalls, relocation of the cart wash area and range ball machines, constructing a new practice putting green, and constructing a learning center. The learning center would consist of high-performance driving range stalls with technological teaching tools, a meeting space, offices, bathrooms, and storage.

If the driving range netting improvements proposed in the FTSV partnership are not constructed, the existing netting of the driving range will need to be replaced at the current height by the City within the next few years because the nets are at the end of their useful life.

If the City opts to explore constructing a 2nd story to the driving range at the Baylands Golf Links, both the netting and height of the poles would need to be replaced by the City. A 2nd story would necessitate a feasibility assessment of costs, return on investment, and footprint expansion of the driving range. Additionally, a ball trajectory study would need to be performed to determine the appropriate height of netting and poles along with approval from the Federal Aviation Administration due to the adjacent airport. Should the City potentially opt to explore the 2nd story to the driving range, FTSV and the City would need to further discuss the impact of the City exploring a 2nd story driving range.

**Timeline**

Upon establishment of a Letter of Intent, staff and FTSV will develop and negotiate project and facility use agreements within 18 months to present to City Council for review. With an LOI, FTSV will pursue fundraising and public outreach for the partnership proposal.
**Resource Impact**

As the LOI is non-binding and intended to facilitate discussion towards agreements, it does not commit either party to any agreement or contract. Financial resources for staff time are established in the operating budgets of respective departments.

Note that there are other community service and recreation projects of interest in Palo Alto such as the construction of a 2nd story of the driving range at the Baylands Golf Links, skatepark renovations or replacement, and potential construction of a new gym and wellness center that might overlap with the donor base of FTSV’s project and create fundraising obstacles. In addition, staff will need to prioritize these projects because current staffing levels do not have the capacity to oversee the development and implementation of major new community service and recreation projects.

FTSV proposes to cover the cost of the initial facility infrastructure improvements (estimated to be $4.2 million in 2019) through fundraising efforts. The ongoing maintenance of these improvements is expected to be negotiated as part of the partnership discussion. Financial impacts resulting from any agreements would be identified upon presentation to City Council for review and approval.

**Policy Implications**

If infrastructure improvements at the golf course are constructed, a Park Improvement Ordinance will be required for park development. The Ordinance will be prepared and presented to City Council at the point when the actual project agreement is ready for City Council approval.

**Stakeholder Engagement**

FTSV introduced a long-term PPP to the Parks and Recreation Commission (Commission) at their October 27, 2020 meeting (agenda). FTSV returned to the Commission on September 28, 2021 (agenda) and the Commission recommended that Council direct staff to develop an LOI or Memorandum of Understanding between the City and FTSV towards establishing a PPP for youth development and infrastructure improvements at the Baylands Golf Links. OB Sports is the City’s contracted course operator and currently coordinates regularly with FTSV, most frequently to schedule FTSV programming at BGL seasonally. FTSV and City staff have been in communication with OB Sports about FTSV’s proposal.

**Environmental Review**

The approval of the Letter of Intent does not qualify as a ‘project’ under the California Environmental Quality Act (CEQA), California Public Resources Code section 21065 and the CEQA guidelines, Title 14, section 15378, therefore, no environmental assessment is required at this time.

**Attachments:**
• Attachment 11.a: Attachment A - FTSV LOI
• Attachment 11.b: Attachment B - Figure A Diagram Practice Facilities
May 10, 2022

George Maxe, President & CEO First Tee of Silicon Valley
2797 Park Ave., Suite 207
San Jose, CA 95050

RE: Letter of Intent for Mutual Cooperation and Support between the City of Palo Alto and the First Tee Silicon Valley to Facilitate a Public Private Partnership at Baylands Golf Links

Dear Mr. Maxe:

The City of Palo Alto (the "City") and the First Tee Silicon Valley ("FTSV") have enjoyed a positive relationship since 2009. FTSV develops youth through the game of golf throughout Silicon Valley, by providing educational programs that build character, instilling life-enhancing values, and promoting healthy choices through the game of golf. FTSV teaches all youth 2nd – 12th grade regardless of background. Since 2009, FTSV has provided these quality programs at Baylands Golf Links ("BGL").

FTSV now wishes to collaborate and negotiate a long-term public private partnership to expand and enhance First Tee's programs by achieving the following strategic objectives:

1. Completing the designated BGL "Youth Practice Area" for use by FTSV for its programming and educational efforts;
2. Providing specific infrastructure improvements at the BGL:
   a. Raise netting of Driving Range to prevent range balls from entering adjacent practice areas.
   b. Construct new ball retention netting between Youth Practice Area and Embarcadero Rd. to prevent practice balls from entering adjacent walkway and road.
3. Securing long-term access to other BGL facilities and long-term use rights at BGL for FTSV; and
4. Expanding FTSV's youth golf programing to thousands of local youth.

FTSV endeavors to fundraise and invest in BLG to construct the netting infrastructure improvements listed above (estimated in 2019 to be $4.2 million or more) in order to make the BGL FTSV's permanent Mid-Peninsula location for up to fifty (50) years, with an initial agreement of 15 years based on an estimated life expectancy of improvements and subsequent options for mutual renewals. This proposed partnership is predicated on FTSV raising the funds needed for the netting infrastructure improvements. FTSV’s long-term vision for Palo Alto and the Mid-Peninsula is to grow annual participation to over 1,000 youth at the golf course and 5,000 outreach youth by 2025. This vision represents 350% growth from
2019 participation of 290 youth). FTSV’s approach is to provide high quality golf course classes while conducting outreach off-site at schools and in youth programs. FTSV’s vision is to use the BGL Youth Practice Area for golf course classes and to host outreach field trips. FTSV’s initiative will include other key City stakeholders and collaborators, such as, OB Sports (BGL Operator); Forrest Richardson & Associates (BGL Architect); and Wadsworth Golf Construction (BGL Contractor), as well as users, such as, Gunn High School, Palo Alto High School, and East Palo Alto Junior Golf.

The City does not have budgeted funds or its own plans to make the range netting height improvements, and the City desires to fully open the youth practice area and the short game practice area of the BGL and engage in a long-term partnership for youth golf programming. The City and FTSV envision that the Community Service Department’s mission, core programs, and services would be enhanced with a strong public-private partnership between the City and FTSV that is comprised of mutual understanding and goals.

The City and FTSV are interested in undertaking and completing the project proposed above in accordance with one or more agreements subject to mutually acceptable terms and conditions. The City and FTSV will endeavor to negotiate a potential agreement over the next eighteen (18) months, as practicable. Elements to be negotiated in the agreement(s) include:

- Length of Partnership and cost share of future upkeep, repairs, and capital improvement (such as future netting and pole replacement).
- City contracting requirements and possible City collaboration associated with the selection of a construction firm to install the poles and nets, and to complete the designated BGL “Youth Practice Area”.
- Establishment of a timeframe and details, including but not limited to project funding, pertaining to project construction, maintenance, and facility use.
- Acknowledgement of coordination with various City departments such as Community Services, Planning, Development Services, Utilities, Public Works, Transportation, Administrative Services, Purchasing, Real Estate, and Legal.
- Review by environmental agencies, environmental stakeholders, the City’s Architectural Review Board, the City’s Planning and Transportation Commission, and possibly other City Boards or Commissions.
- Acknowledgement the City may explore a 2nd story driving range which may require coordination with the FTSV construction project.
- Options for either party to ‘exit’ a partnership.

Upon FTSV acceptance of this letter, FTSV will continue raising funds for the netting infrastructure improvements at the BGL facility at FTSV’s sole discretion. FTSV will undertake a community outreach and fundraising program to garner the community's input and support for the Project. The City will provide reasonable staff support and other assistance to work with the FTSV in negotiation of an
agreement(s) that covers the points identified above. All agreements are subject to the approval of the City Council, and this letter does not bind them to any specific decision or approval.

This letter is not a binding contract between the City and FTSV and does not establish a legal partnership or any other legal relationship. Nor shall this letter create any reliance on either party to act or not act in any specific way. It is intended to facilitate discussion of the key agreement terms and conditions of the agreement(s) relating to the project, and it is only an expression of the basis on which the City and FTSV would enter into the agreements regarding the project.

The City requests the FTSV's acknowledgement of this letter below in order to facilitate further discussion of the key terms and conditions of a proposed agreement(s) concerning the project.

Sincerely,

Ed Shikada, City Manager

Copies to:
Kristen O’Kane, Director, Community Services
Brad Eggleston, Director, Public Works
Kiely Nose, Director, Administrative Services
Daren Anderson, Assistant Director, Community Services
Tim Shimizu, Assistant City Attorney
Lam Do, Superintendent, Open Space, Parks, and Golf

First Tee Silicon Valley hereby acknowledges a mutual interest in developing appropriate agreements between the Parties described above.

George Maxe, President & CEO First Tee Silicon Valley

Date

4/25/2022
FIGURE A: TFTSV Baylands Project Overview
Report on Palo Alto's Response to Hate Crimes and Hate Incidents, and Discussion of the Policy and Services Committee Recommendation that the City Council Consider the Idea of Developing a Misdemeanor Ordinance to Deter Hateful Speech and Support the Human Relations Commission (HRC) to Bring the FBI and Community Resources to Palo Alto to do Community Education on Hate Crimes

From: City Manager

Lead Department: City Manager

Recommendation
Staff recommends that the City Council receive a report on City responses to hate crimes and hate incidents, including the idea of developing a misdemeanor ordinance to deter hateful speech, which was recommended by the Policy and Services Committee in September 2021, and Support the Human Relations Commission (HRC) to bring the Federal Bureau of Investigations (FBI) and community resources to Palo Alto to further community education on hate crimes (per the HRC March 10 Motion).

Background
The City has been focused on topics of inclusion and addressing hate crimes and incidents as part of the race and equity efforts over the past two years. A recent blog post of race and equity efforts (https://medium.com/paloaltoconnect/palo-alto-race-equity-priorities-progress-update-61bdb152b3be) shares information about how the public can report hate crimes or incidents and participate in this important dialogue.

The Policy and Services Committee reviewed quarterly race and equity updates in September 2021 and February 2022. At both meetings, the Committee made unanimous recommendations to the City Council related to a variety of topics including hate crimes and incidents. The Committee decided that the discussion of whether to pursue a hate crimes ordinance was one that should come to the full City Council for action before additional resources are dedicated to it. The rest of the items from those September and February motions were forwarded to the City Council on the May 2, 2022 Consent Agenda (CMR #14194; pdf page 35).

The specific action related to whether to pursue a hate crimes ordinance came from the Policy
and Services Committee at the September 14, 2021 Meeting. The motion was:

Enable the HRC to further develop the idea of a misdemeanor ordinance and other method to deter hateful speech while complying with the constitution.

As the Human Relations Commission (HRC) continues to discuss this topic, they voted at the March 10, 2022 meeting to support a recommendation to bring the FBI and community resources to Palo Alto to do community education on hate crimes. In addition, the HRC voted to make a recommendation to the City Council to increase public awareness and marketing on how to report a hate crime and hate incidents.

Discussion
Federal studies have shown a troubling growth in hate crimes nationally in recent years with hate incidents becoming an increasing concern locally and regionally. The City of Palo Alto strives to be a welcoming and inclusive community for people of all backgrounds and ethnicities and this is a core goal of the race and equity work of the City. In this effort of promoting an inclusive community, the City has increased focus on prevention of and response to hate crimes. This includes increasing partnerships with local organizations to expand awareness of how to report a hate crime or incident as well as safe ways to intervene (if appropriate); this also includes the efforts of the Police Department and legal system to be most responsive when hate crimes or incidents do occur. This staff report is in response to both the Policy and Service Committee and HRC discussions on hate crimes and seeks City Council input on recommendations following additional research on this important issue.

After researching state and federal law on hate crimes and hate incidents, staff recommends that Palo Alto’s efforts to combat hate crimes and incidents be directed toward expanding community awareness, increasing incident reporting, and supporting victims, their families, and communities, rather than developing a new criminal ordinance at the municipal level. Specifically, Palo Alto can continue and seek to enhance its use of communication channels and other tools to foster residents’ knowledge of their rights and resources that can be made available. Palo Alto can also continue to strongly encourage victims to report hate incidents and crimes to the police, with a goal of ensuring that incidents rising to a criminal level are fully investigated and prioritized for prosecution, and that other hate incidents are recognized and appropriately responded to. Existing state laws punish hate-based criminal conduct to the extent permitted by the U.S. Constitution. A local ordinance would have to comply with the same Constitutional limitations and would not likely be a useful tool for police or prosecutors. Increasing awareness and promoting reporting, on the other hand, could make valuable contributions to the effort to foster healthy and safe communities where all residents can experience a strong sense of belonging without fear.

Completed and Ongoing Communications and Community Engagement Efforts Related to Hate Crimes and Hate Incidents
In 2021, the Police Department established a procedure of sharing news releases to increase public information about hate crimes that occur in Palo Alto. The goal of sharing details on these incidents is three-fold; asking the public for help in gaining more details about specific incidents, increasing public awareness, and encouraging the public to report these types of incidents so that the Department can investigate and pursue prosecution of hate crimes. In addition, to build community awareness about the complexity of these types of incidents, the Police Department hosted a town hall meeting in the fall of 2021 on hate crimes and other community events in 2021 related to this topic. Finally, the City released a blog post about how the community can report these types of incidents to the Police Department and other tools to foster community knowledge of their rights and resources available, and the importance of reporting these incidents so that the Police Department can fully investigate these issues.

Community events hosted in 2021 to build community awareness about hate crimes and hate incidents included:

- March 17, 2021: Hate Crimes Presentation to HRC (including the Palo Alto Police Department and District Attorney representatives)
- April 19, 2021: Safety and Awareness at Avenidas #1
- April 26, 2021: Safety and Awareness at Avenidas #2 (including Chiefs Galea and Jonsen, and a bilingual officer)
- October 20, 2021: from 6-8pm CommUNITY Together: Recognizing and Reporting Hate Crimes in the Community (hosted by City of Palo, in partnership with the HRC and including a panel of experts including the Palo Alto Police Department, the District Attorney’s Office and Stanford University)

Each of these events included education on applicable laws and Department policies and procedures, explanation of the distinction between hate crimes and hate incidents, a statistical overview, discussion of recent incidents, and question and answer sessions.

Current Practices in Response to Hate Incidents and Crimes

The Police Department’s existing policies and procedures provide for the thorough investigation and documentation of both hate crimes and hate incidents. Consistent with state law, the Department has a Hate Crimes policy (§338). The Hate Crimes policy (Attachment A) promotes the safety and security of individuals in Palo Alto by providing detailed requirements for investigation, evidence collection, victim support, community outreach, and training. See attached policy for additional detail.

The Department also provides related training to its officers beyond what is provided as part of the CA POST basic police academy curriculum (which already provides all peace officers in California with specific training on hate crimes). In addition to this state-mandated basic training, the Department provides continued professional training relating to hate crimes to its officers on a regular basis and with more frequency than required by POST. The Department
also complies with the guidelines established by the Santa Clara County Hate Crimes Protocol (Attachment B), which standardizes the responses of agencies within the County and ensures compliance with applicable state law. See attached policy for additional detail.

The Department thoroughly investigates hate crimes. This includes interviews with victims, witnesses and suspects; evidence collection; canvassing of neighborhoods for any available surveillance video; working with regional law enforcement partner agencies to identify any similar cases; and meticulously documenting all these steps in a crime report. If probable cause exists for an arrest, the Department will make an arrest. If the circumstances warrant, the Department can also send the crime report to the District Attorney’s Office for review for any appropriate charges. The Department works closely with subject matter experts at the Santa Clara County District Attorney’s Office to ensure that hate crimes with an identified suspect are correctly classified, charged and prosecuted. And, while the Department had always conducted investigations and completed reports regarding non-criminal hate incidents, in 2021, the Department created a separate reporting classification of “Hate Incident” to make these incidents more readily recognizable and trackable over time. Collecting this data allows the City to better support affected communities, provides credible information for the public, shows victims that they are not alone, and helps researchers in determining trends in hate incidents.

Beyond these measures, as noted above, the Department continues to take steps to build public awareness of hate incidents and hate crimes. Over the past twelve months, in the conjunction with the Santa Clara County District Attorney’s Office, the Department led numerous public informational sessions regarding hate crimes and hate incidents, including a bilingual event. These events reinforce the message that hate incidents are taken seriously by the Department, even if they are not criminal. The Department also uses these events to inform the public about how to respond if they witness a hate incident or hate crime. Public engagement is a key element of the Department’s efforts to reduce the instances and impacts of hate incidents and hate crimes.

Hate Incidents and Crimes under the California Criminal Code and U.S. Constitution

California has enacted numerous statutes to address hate crimes, including expanding the characteristics protected under hate crime statutes. Please see Attachment C for a detailed description of California hate crimes laws, as well as the requirements of the state and federal constitutions that circumscribe criminalization of hate speech in some cases. Attachment C also includes information about how hate crime prosecutions are handled by the Santa Clara County District Attorney’s Office.

California law is responsive to hate incidents and hate crimes to the extent permitted by the state and federal constitutions. A municipal misdemeanor ordinance could not go further than state law currently does to deter or punish hate incidents. The Penal Code also provides a robust structure of punitive, preventative, and restorative tools to address the harms
committed to the victims of hate crimes.\(^1\) Additionally, the State Legislature appears to be committed to refining and supporting a strong statewide approach to hate crimes and hate incidents.

*Human Relations Commission Work on Hate Crimes & Incidents*

The Human Relations Commission (HRC) discussed hate crimes and incidents at their March 10, 2022 meeting and determined that further community education is necessary on this topic. They proposed bringing the Federal Bureau of Investigations (FBI) and other community resources to Palo Alto to help with this community education and awareness. Additionally, the HRC proposed the recommendation for the City Council to increase public awareness and marketing on how to report hate crimes and hate incidents. Enhancing existing staff work on this topic would require resources as there is currently no budget to expand further than noted above. The City Council could consider allocating resources to this effort per the HRC recommendation if desired to enhance existing work underway.

*Resource Impact*

As discussed in this report, Staff does not recommend the pursuit of a local hate crimes ordinance. In 2021, the City has expanded communications related to hate crimes and hate incidents occurring in the community, including hosting community meetings and a town hall, issuing news releases on hate crimes that have occurred, publishing a blog post sharing details about how to report hate crimes and hate incidents, and additional public information and awareness using existing City communications channels. If the City Council would like to pursue increased public awareness and marketing on how to report a hate crime and hate incident, staff would assess costs associated.

*Stakeholder Engagement*

Community engagement is an integral part of Palo Alto’s race and equity work. Engaging the community at large to provide feedback for the City’s Race and Equity strategy has been a priority throughout this process as shown in the Framework. The City continues to engage the community through a series of Race and Equity conversations. Updates on the City’s ongoing efforts can be found on the Race and Equity webpage on the City website ([www.cityofpaloalto.org/raceandequity](http://www.cityofpaloalto.org/raceandequity)). Related to hate crimes and incidents, the City continues to look for community partners to help increase awareness similar to the work the HRC continues to lead.

*Environmental Review*

This action is not a project and therefore not subject to environment review in accordance with the California Environmental Quality Act.

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\(^1\) For more information about sentencing, restorative justice, and civil law responses to hate crimes, see the California Attorney General’s *Guidance to Prosecutors on Hate Crimes* (Jul. 2021), [https://oag.ca.gov/system/files/media/hc-prosecutor-guidance.pdf](https://oag.ca.gov/system/files/media/hc-prosecutor-guidance.pdf).
Attachments:

- **Attachment 12.a:** Attachment A: PAPD.Policy.338
- **Attachment 12.b:** Attachment B: Santa Clara County Hate Crimes
- **Attachment 12.c:** Attachment C: Hate Crimes and Hate Incidents under the California Penal Code and the State and Federal Constitutions
Hate Crimes

338.1 POLICY
The Palo Alto Police Department recognizes and places a high priority on the rights of all individuals guaranteed under the state and federal constitution and incorporated in state and federal law.

The Palo Alto Police Department hate crimes policy is drafted in accordance with the Santa Clara County Protocols. Personnel are required to read and follow the additional guidelines set forth in the Santa Clara County Protocols Section 10 - Santa Clara County Law Enforcement Policy Statement Regarding Hate Crimes.

338.2 POLICY ISSUE DATE
Updated: 12-8-16
Updated: 5-3-17
Updated: 3-19-20
Updated: 1-13-21

338.3 PURPOSE AND SCOPE
This policy is designed to assist in identifying and handling crimes motivated by hate or other bias toward individuals and groups with legally defined protected characteristics, to define appropriate steps for assisting victims, and to provide a guide to conducting related investigations. It outlines the general policy framework for prevention, response, accessing assistance, victim assistance and follow-up, and reporting as related to law enforcement’s role in handling hate crimes. It also serves as a declaration that hate crimes are taken seriously and demonstrates how the Palo Alto Police Department may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy (Penal Code § 13519.6).

338.3.1 DEFINITION AND LAWS
In accordance with Penal Code § 422.55; Penal Code § 422.56; Penal Code § 422.6; and Penal Code § 422.87, for purposes of all other state law, unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

Bias motivation - Bias motivation is a pre-existing negative attitude toward actual or perceived characteristics referenced in Penal Code § 422.55. Depending on the circumstances of each case, bias motivation may include but is not limited to hatred, animosity, discriminatory selection of victims, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one’s “own kind,” or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including but not limited to disability or gender.
Disability - Disability includes mental disability and physical disability as defined in Government Code § 12926, regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.

Disability bias - In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as but not limited to dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore “deserving victims,” a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes but is not limited to situations where a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons, such as inebriated persons or persons with perceived disabilities different from those of the victim. Such circumstances could be evidence that the perpetrator’s motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

Gender - Gender means sex and includes a person's gender identity and gender expression.

Gender expression - Gender expression means a person's gender-related appearance and behavior, regardless of whether it is stereotypically associated with the person's assigned sex at birth.

Gender identity - Gender identity means each person's internal understanding of their gender, or the perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender (2 CCR § 11030).

Hate crime - “Hate crime” includes but is not limited to a violation of Penal Code § 422.6, and means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

(a) Disability
(b) Gender
(c) Nationality
(d) Race or ethnicity
(e) Religion
(f) Sexual orientation
(g) Association with a person or group with one or more of these actual or perceived characteristics:
Hate Crimes

1. “Association with a person or group with one or more of these actual or perceived characteristics” includes advocacy for, identification with, or being on the premises owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of the characteristics listed in the definition of “hate crime” under paragraphs 1 to 6, inclusive, of Penal Code § 422.55(a).

Note: A “hate crime” need not be motivated by hate but may be motivated by any bias against a protected characteristic.

Hate incident - A hate incident is an action or behavior motivated by hate or bias but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

- Name-calling
- Insults and epithets
- Distributing hate material in public places
- Displaying hate material on your own property

Hate speech - The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected:

- Fighting words
- True threats
- Perjury
- Blackmail
- Incitement to lawless action
- Conspiracy
- Solicitation to commit any crime

In whole or in part - “In whole or in part because of” means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that a crime would not have been committed but for the actual or perceived characteristic.

Nationality - Nationality means country of origin, immigration status, including citizenship, and national origin.

Race or ethnicity - Race or ethnicity includes ancestry, color, and ethnic background.
Hate Crimes

Religion - Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

Sexual orientation - Sexual orientation means heterosexuality, homosexuality, or bisexuality.

Victim - Victim includes but is not limited to:
- Community center
- Educational facility
- Entity
- Family
- Group
- Individual
- Office
- Meeting hall
- Person
- Place of worship
- Private institution
- Public agency
- Library
- Other victim or intended victim of the offense

338.4 PLANNING AND PREVENTION
In order to facilitate the guidelines contained within this policy, [department/office] members will continuously work to build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. [Department/Office] personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Hate incidents should be investigated and documented as part of an overall strategy to prevent hate crimes.

338.4.1 HATE CRIMES COORDINATOR
A [department/office] member appointed by the Chief of Police or the authorized designee will serve as the Hate Crimes Coordinator. The responsibilities of the Hate Crimes Coordinator should include but not be limited to (Penal Code § 422.87):

(a) Meeting with residents in target communities to allay fears; emphasizing the [department/office]’s concern over hate crimes and related incidents; reducing the potential for counter-violence; and providing safety, security, and crime-prevention
information. Cultural diversity education and immersion programs (if available) could facilitate this process.

(b) Finding, evaluating, and monitoring public social media sources to identify possible suspects in reported hate crimes; to identify suspects or suspect groups in future hate crimes or hate incidents affecting individuals, groups, or communities that may be victimized; and to predict future hate-based events.

(c) Providing direct and referral assistance to the victim and the victim’s family.

(d) Conducting public meetings on hate crime threats and violence in general.

(e) Establishing relationships with formal community-based organizations and leaders.

(f) Expanding, where appropriate, preventive programs such as hate, bias, and crime-reduction seminars for students.

(g) Reviewing the Attorney General’s latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Muslim communities (Penal Code § 13519.6(b)(8)).

(h) Providing orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, black or African-American, Jewish, Sikh, and persons with disabilities.

(i) Coordinating with the Personnel and Training Lieutenant to include in a training plan recognition of hate crime bias characteristics, including information on general underreporting of hate crimes.

(j) Verifying a process is in place to provide this policy and related orders to officers in the field; and taking reasonable steps to rectify the situation if such a process is not in place.

(k) Taking reasonable steps to ensure hate crime data is provided to the Technical Services Division for mandated reporting to the Department of Justice.

(l) Reporting any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Technical Services Division Policy.

(m) Maintaining the [department/office]’s supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).

(n) Annually assessing this policy, including:

1. Keeping abreast of the Commission on Peace Officer Standards and Training (POST) model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, and planning and prevention methods.

2. Analysis of the [department/office]’s data collection as well as the available outside data (e.g., annual California Attorney General’s report on hate crime) in preparation for and response to future hate crimes.
338.4.2 RELEASE OF INFORMATION

Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure often assists greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

(a) Dissemination of correct information.

(b) Assurance to affected communities or groups that the matter is being properly and promptly investigated.

(c) The ability to request information regarding the commission of the crimes from the victimized community.

Information or records relating to hate crimes subject to public disclosure shall be released as provided by the Records Maintenance and Release Policy or as allowed by law. In accordance with the Media Relations Policy, the supervisor, public information officer, or the authorized designee should be provided with information that can be responsibly reported to the media. When appropriate, the [department/office] spokesperson should reiterate that hate crimes will not be tolerated, will be investigated seriously, and will be prosecuted to the fullest extent of the law.

The [Department/Office] should consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

• Inform community organizations in a timely manner when a community group has been the target of a hate crime.

• Inform the community of the impact of these crimes on the victim, the victim's family, and the community, and of the assistance and compensation available to victims.

• Inform the community regarding hate crime law and the legal rights of, and remedies available to, victims of hate crimes.

• Provide the community with ongoing information regarding hate crimes and/or hate incidents.

338.5 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

338.5.1 INITIAL RESPONSE

First responding officers should know the role of all [department/office] personnel as they relate to the [department/office]'s investigation of hate crimes and/or incidents. Responding officers should evaluate the need for additional assistance and, working with supervision and/or investigations, access needed assistance if applicable.

At the scene of a suspected hate or bias crime, officers should take preliminary actions reasonably deemed necessary, including but not limited to the following:

(a) Use agency checklist (per Penal Code § 422.87) to assist in the investigation of any hate crime (see Appendix).

(b) Stabilize the victims and request medical attention when necessary.

(c) Properly protect the safety of victims, witnesses, and perpetrators.
Hate Crimes

1. Assist victims in seeking a Temporary Restraining Order (if applicable).

(d) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.

(e) Properly protect, preserve, and process the crime scene, and remove all physical evidence of the incident as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to facilitate removal or covering as soon as reasonably possible. [Department/Office] personnel should follow up with the property owner to determine if this was accomplished in a timely manner.

(f) Collect and photograph physical evidence or indicators of hate crimes such as:
   1. Hate literature.
   2. Spray paint cans.
   3. Threatening letters.
   4. Symbols used by hate groups.

(g) Identify criminal evidence on the victim.

(h) Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.

(i) Conduct a preliminary investigation and record pertinent information including but not limited to:
   1. Identity of suspected perpetrators.
   2. Identity of witnesses, including those no longer at the scene.
   3. The offer of victim confidentiality per Government Code § 6254.
   4. Prior occurrences in this area or with this victim.
   5. Statements made by suspects; exact wording is critical.
   6. The victim's protected characteristics and determine if bias was a motivation "in whole or in part" in the commission of the crime.

(j) Adhere to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.

(k) Provide information regarding immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).

(l) Provide the [department/office]'s Hate Crimes Brochure (per Penal Code § 422.92) if asked, if necessary, or per policy.

(m) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).
Hate Crimes


338.5.2 INVESTIGATION

Investigators at the scene of, or performing follow-up investigation on, a suspected hate or bias crime or hate incident should take all actions deemed reasonably necessary, including but not limited to the following:

(a) Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).

(b) Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.

(c) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

(d) Properly investigate any report of a hate crime committed under the color of authority per Penal Code § 422.6 and Penal Code § 13519.6.

(e) Document physical evidence or indicators of hate crimes, in accordance with the provisions of the Property and Evidence Policy, such as:
   1. Hate literature.
   2. Spray paint cans.
   3. Threatening letters.
   4. Symbols used by hate groups.
   5. Desecration of religious symbols, objects, or buildings.

(f) Request the assistance of translators or interpreters when needed to establish effective communication.

(g) Conduct a preliminary investigation and record information regarding:
   1. Identity of suspected perpetrators.
   2. Identity of witnesses, including those no longer at the scene.
   4. Prior occurrences, in this area or with this victim.
   5. Statements made by suspects; exact wording is critical.
   6. Document the victim’s protected characteristics.

(h) Provide victim assistance and follow-up.

(i) Canvass the area for additional witnesses.

(j) Examine suspect’s social media activity for potential evidence of bias motivation.

(k) Coordinate the investigation with [department/office], state, and regional intelligence operations. These sources can provide the investigator with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.
Hate Crimes

(l) Coordinate the investigation with the crime scene investigation unit (if applicable) or other appropriate units of the [Department/Office].

(m) Determine if the incident should be classified as a hate crime.

(n) Take reasonable steps to provide appropriate assistance to hate crime victims, including the following measures:
   1. Contact victims periodically to determine whether they are receiving adequate and appropriate assistance.
   2. Provide ongoing information to victims about the status of the criminal investigation.
   3. Provide victims and any other interested persons the brochure on hate crimes per Penal Code § 422.92 and information on any local advocacy groups (if asked).


(p) Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents, and determine if organized hate groups are involved.

338.5.3 SUPERVISION
The supervisor shall confer with the initial responding officer and take reasonable steps to ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

(a) Provide immediate assistance to the crime victim by:
   1. Expressing the [department/office]'s official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
   2. Expressing the [department/office]'s interest in protecting victims' anonymity (confidentiality forms, Government Code § 6254) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.
   3. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy, or a [department/office] chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per Penal Code § 422.92).

(b) Take reasonable steps to ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.

(c) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.

(d) In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an officer to specific locations that could become targets).
Hate Crimes

(e) Verify hate crimes are being properly reported, including reporting to the Department of Justice, pursuant to Penal Code § 13023.

(f) Verify adherence to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).

(g) Respond to and properly initiate an investigation of any reports of hate crimes committed under the color of authority.

(h) Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For additional information refer to the California Department of Justice website.

(i) Verify reporting of any suspected multi-mission extremist crimes to the agency Hate Crimes Coordinator.

(j) Make a final determination as to whether the incident should be classified as a hate crime and forward to the Chief of Police for approval.

338.6 TRAINING
All members of this [department/office] will receive POST-approved training on hate crime recognition and investigation as provided by Penal Code § 13519.6. Training should include (Penal Code § 422.87):

(a) Recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group, including disability bias, gender bias, and religion bias.

(b) Accurate reporting by officers, including information on the general underreporting of hate crimes.

(c) Distribution of hate crime brochures.

338.7 APPENDIX
See attachments:

Statutes and Legal Requirements.pdf
Hate Crime Checklist.pdf
Santa Clara County
Law Enforcement Policy Statement
Regarding Hate Crimes

Santa Clara County’s Law Enforcement Agencies and District Attorney’s Office are committed to thorough and effective investigation of hate crimes. This commitment recognizes the importance of respecting victimized persons and holding offenders fully responsible for their criminal conduct.

The Santa Clara County Police Chiefs’ Association adopts the attached policy statement regarding hate crimes.

Chief Bruce Cumming
Chair, Police Chiefs’ Association of Santa Clara County

Members:

CALIFORNIA HIGHWAY PATROL
Captain Cathy Wayne

CAMPBELL POLICE DEPARTMENT
Chief David Gullo

GILROY POLICE DEPARTMENT
Chief Denise Turner

LOS ALTOS POLICE DEPARTMENT
Chief Tuck Younis

LOS GATOS/MONTE SERENO POLICE DEPT.
Chief Scott Seaman

MILPITAS POLICE DEPARTMENT
Chief Dennis Graham

MOUNTAIN VIEW POLICE DEPARTMENT
Chief Scott Vermeer

Palo Alto Police Department
Chief Lynne Johnson

San Jose Police Department
Chief Rob Davis

San Jose State University Police Dept.
Chief André Barnes

Santa Clara County District Attorney’s Office
Dolores A. Carr, District Attorney

Santa Clara Police Department
Chief Stephen Lodge

Sunnyvale Department of Public Safety
Chief Don Johnson
SANTA CLARA COUNTY
LAW ENFORCEMENT POLICY STATEMENT
REGARDING HATE CRIMES

POLICY

The members of the Santa Clara County Police Chiefs’ Association (the “Association”) agree to focus agency administrative, investigative and enforcement resources toward eliminating hate crimes through enforcement, in-service training, victim assistance and community crime prevention efforts.

PROFESSIONAL EXPECTATIONS

“Hate Crime” means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim: disability, gender, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. The underlying bias must be a substantial factor in the perpetrator’s motivation to commit the crime. Such crimes attack the basic values of American society by targeting the right of every resident to live safely and freely. They are especially pernicious because they can provoke retaliation, inflict significant emotional harm on their victims, and polarize communities. We recognize the impact of these crimes on victims, their families and our community. Therefore, we are committed to the highest professional standards when dealing with hate crimes.

REPORTING

The Association acknowledges the critical importance of thoroughly reporting and tracking hate crimes. Each agency is responsible for ensuring its communications staff receive training in identifying hate crimes. This will help ensure an appropriate response to reported hate crimes. In addition, the Association acknowledges the importance of encouraging community members to report all bias-related incidents, even when they do not rise to the level of a hate crime. This will allow agencies to take measures to prevent such incidents from escalating into hate crimes.

Reports should contain, when appropriate, suspect’s and victim’s disability, gender, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. Such reports should also include information and any quotes which indicate why the crime appears to have been committed substantially because of the victim’s disability, gender, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. All hate crimes shall be documented on the appropriate crime report forms, ensuring that the hate crime fields are properly marked.

All reported bias-related incidents that do not rise to the level of a hate crime will nonetheless be documented. A designee in the agency will collect, review and store all incident reports to assist in pattern analysis and aid in the prosecution of hate crimes. The report, when appropriate, will state suspect’s and victim’s disability, gender, nationality, race or ethnicity, religion, sexual orientation, or association. This information will be utilized for follow-up and appropriate referral to mutually concerned agencies, including the Santa Clara County Network for a Hate-Free Community.
PATROL OFFICER RESPONSE

When a patrol officer determines that a hate crime has occurred, the officer shall conduct a thorough preliminary investigation consistent with agency policies and procedures. The investigation will focus on the identification, apprehension and prosecution of suspects.

Officers will maintain objectivity in reporting hate crimes. An arrest shall be made when appropriate. Officers shall document elements of the crime, description of injuries and all evidence collected.

Officers will be aware of the emotional trauma associated with hate crimes and be sensitive to the victim’s feelings, needs and fears. Officers will explain the options available to the victim, including the citizen’s arrest process, temporary restraining orders (if applicable), and in cases of arrest, the follow-up procedures and ensuing criminal proceedings. Officers will inform the victim of available department and community resources, including resources available from the Santa Clara County Victim Witness Assistance Center and the Santa Clara County Network for a Hate-Free Community.

INVESTIGATION

All reported hate crimes will receive thorough follow-up investigation consistent with agency policies and procedures. Investigators will maintain liaisons with appropriate state, federal and local law enforcement agencies for intelligence and information exchange and assistance. To the maximum extent possible, agencies will assign responsibility for investigating hate crimes to a specific team or individual.

PREVENTION EFFORTS

All agencies will develop and implement innovative strategies designed to prevent and reduce the spread of hate crimes and bias-motivated incidents within their communities. The agencies will develop programs that are consistent with their mission and values statements. Agencies will engage community leaders and organizations in their prevention efforts and have brochures available to the public pursuant to Penal Code section 422.92.

TRAINING

It is the policy of the Association to encourage and facilitate hate crime training for public safety personnel in accordance with Penal Code section 13519.6. The Association will facilitate the development of training that will assist local agencies in hate crime education. Departments will develop procedures to accomplish formal on-the-job training. The training will follow California Peace Officer Standards and Training guidelines.

PROSECUTING ATTORNEY

The Santa Clara County District Attorney’s Office recognizes the distinctive fear and stress typically suffered by victims of hate crimes, the potential for reprisal and escalation of violence, and the far-reaching negative consequences that hate crimes have on our community. The District Attorney’s Office considers hate crimes to be very serious and is committed to prosecuting hate crimes aggressively through vertical prosecution.
Hate Crimes and Hate Incidents under the California Penal Code and the State and Federal Constitutions

Section 422.55 of the Penal Code of the State of California defines a hate crime as follows:

A “hate crime” is a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation, and (7) association with a person or group with one or more of these actual or perceived characteristics.

Penal Code section 422.6 makes it a crime to do either of the following in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in Section 422.55:

. . . by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States (Pen. Code, § 422.6(a)); or

. . . knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States (Pen. Code, § 422.6(b)).

A hate incident is legally distinguishable from a hate crime because it involves speech or behavior that, while motivated by hate, is legally protected by the right to freedom of expression granted by the U.S. Constitution’s First Amendment. Examples of hate incidents include:

- Name-calling
- Insults
- Slurs
- Distribution of hate material in public places, and
- Displays of hate material on one’s own property.

The First Amendment to the U.S. Constitution (included in the Bill of Rights) protects hate speech as long as it does not interfere with the civil rights of others. To ensure that First Amendment-protected speech is not criminalized, California Penal Code section 422.6 provides: “[N]o person may be convicted of violating subdivision [422.6(a)] based upon speech alone, except upon a showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.”
If a hate incident elevates to include threats to a person or property, it may become a hate crime.\(^1\) In addition to the crime of using force, threats or vandalism to interfere with civil rights (Pen. Code, § 422.6), as noted above, California law provides for other types of conduct to be prosecuted as hate crimes, such as:

- Vandalism of a place of worship (Pen. Code, § 594.3)
- Disturbing religious meetings (Pen. Code, § 302)
- Terrorizing private property (Pen. Code, § 11411)
- Religious terrorism (Pen. Code, § 11412)

California law also provides for protection against further harm and other forms of restitution in connection with a hate crime by permitting or requiring the issuance of protective orders or education programs:

- Penal Code section 136.2 grants hate crime victims the right to a court order prohibiting additional harassment during the pendency of the criminal proceeding.
- As a condition of probation, Penal Code section 422.85 provides for a protective order for the victim and their immediate family or domestic partner, as well as court ordered civil rights training for and restitution by the defendant.
- Penal Code section 422.88 requires the court in a criminal proceeding stemming from an alleged hate crime to take all actions reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of the alleged victim, or of a person who is a victim of, or at risk of becoming a victim of, a hate crime.
- Penal Code section 422.865, subd. (b) requires a protective order for the victim or known immediate family or domestic partner in cases where a defendant who is committed to a state hospital or other treatment facility, is either placed on outpatient status or conditional release.
- For supervised release of defendants in cases of bias-motivated crimes from state hospitals or treatment facilities, Penal Code section 422.865, subd. (a) allows a court or community program director to order that the defendant complete certain trainings developed or authorized by the court or local agencies in cooperation with organizations serving the affected community.

State law addressing hate incidents and hate crimes has also been a recent subject of legislative updates, with statewide updates to law enforcement agencies’ hate crime policies coming into effect as recently as January 1, 2022.\(^2\)

The state legislature is continuing its efforts to fine-tune and standardize local law enforcement agencies’ handling of hate crimes and hate incidents with Assembly Bill (AB) 1947, currently pending in the Legislature. At the time of this writing, AB 1947 would require, among other

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2 See Assembly Bill (AB) 57 (2021).
things, that all local law enforcement agencies use the state’s definition of “hate crime,” develop
an adequate response policy to hate crimes, and consider key characteristics of a crime that may
indicate whether it was motivated by a victim’s protected characteristics. AB 1947 continues the
state legislature’s efforts to develop a strong framework to respond to hate crimes and hate
incidents and to ensure that these occurrences are addressed in a consistent way throughout
California. The requirements of AB 1947, if passed into law, could supersede any local hate crime
ordinance. The City Council may wish to support AB 1947.

*Existing Hate Crime Prosecution by District Attorneys*

Hate crimes can be challenging to prosecute. Aside from the complex web of state laws that
punish individuals who commit hate crimes, there also are state laws and programs protecting
victims of hate crimes, which a prosecutor must also heed. Due to their complexity, the
California Attorney General recommends that local prosecutorial agencies have a designated unit
or deputy to review and/or prosecute all hate crimes. This kind of specialized prosecution is
outside the capabilities of the City of Palo Alto. The City relies on the Santa Clara County District
Attorney’s Office to handle complex prosecutions, including hate crimes.

As a practical matter, even if Palo Alto was able lawfully to adopt a misdemeanor ordinance
punishing hate crimes, a Santa Clara County prosecutor with experience in hate crime
prosecution would be highly likely to rely exclusively on state law in their prosecution. The
existence of a municipal misdemeanor ordinance would likely have little impact on the
prosecutor’s case.

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3 See, e.g., Marsy’s Law (Cal. Const. art. I, § 28, subd. (b)), the National District Attorneys Association’s *Victim
4 See the California Attorney General’s *Guidance to Prosecutors on Hate Crimes* (Jul. 2021),
City of Palo Alto
City Council Staff Report

Meeting Date: 5/9/2022
Report Type: Information Reports

Title: 2021 Palo Alto Transportation Management Association Annual Report, 2021 Downtown Commute Survey, and 2022 Strategic Business Plan

Summary
From: City Manager

Lead Department: Transportation Department

Recommendation
This is an information report, and no action is required.

Executive Summary
The Palo Alto Transportation Management Association (TMA) implements programs to reduce single-occupancy vehicle (SOV) trips to and from Palo Alto. The funding agreement between the Palo Alto TMA and the City restricts the use of City funds to trip reduction programs in the Downtown and California Avenue areas only and requires the TMA to report on the use of these funds. The attached Annual Report covers the 2021 calendar year, detailing how public funds were spent to support SOV trip reduction in the Downtown and California Ave districts, including the results of the Fall 2021 Commute Survey. The attachment also includes a summary of the 2022 TMA Strategic Business Plan.

Background
Following direction from the City Council in 2013, staff worked to develop transportation demand management (TDM) strategies to encourage alternatives to solo driving as part of a multi-faceted effort to address traffic and parking concerns in the downtown area and the city at large. The development of a TMA for Palo Alto was a key component of this approach, which the City initially funded through a $499,880 contract with consultants Moore Iacofano Goltsman, Inc. After the TMA was formed in January 2016, this contract continued to fund the sub-consultant services of the TMA’s part-time executive director. The TMA hired permanent part-time staff in April 2018.

In June 2016, Council authorized the City Manager to formalize the provision of additional City funding for TMA programs by executing a funding agreement between the City of Palo Alto, the

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1 CMR #4766: https://www.cityofpaloalto.org/civicax/filebank/documents/43344
Silicon Valley Community Foundation (SVCF), and the Palo Alto TMA. Because the TMA was not yet an approved Section 501(c)(3) organization (its application was pending with the Internal Revenue Service), the TMA operated as a program of SVCF. SVCF held and administered a fund restricted to specific charitable purposes and had legal discretion and control over the restricted account. When the TMA received its formal 501(c)(3) status, SVCF ceased to be the organization’s program sponsor and to act as the TMA’s fiscal agent.

The 2016 funding agreement approved by Council provided $100,000 to the TMA for programs to reduce single-occupancy vehicle (SOV) commute trips to and from downtown Palo Alto. Under a subsequent amendment, the City provided an additional $100,000 to support the TMA’s work in 2017. The City Council adopted a Fiscal Year 2018 budget that included $480,000 for the Palo Alto TMA to continue to support its efforts to reduce SOV commute trips using a variety of strategies. An amended and restated agreement signed in 2017 incorporated this approved funding, extended the agreement’s term and set forth the parties’ obligations over the remaining years. This 2017 funding agreement delegated authority to the City Manager to amend the agreement to add funding if the Council chose to budget additional funds for future fiscal years and to remove the SVCF as a party once the TMA received IRS section 501(c)(3) nonprofit status and no longer required SVCF to act as the TMA’s fiscal agent. In December 2018, the agreement was amended to incorporate additional funds allocated for FY 2019 and to reflect the fact that the SVCF no longer serves as the financial agent for the TMA now that the TMA is a non-profit.

In April 2019, the Finance Committee received a presentation from the TMA and provided feedback on the TMA Strategic Plan. On May 15, 2019, the Finance Committee recommended an increase in employee parking permit rates to provide the TMA with additional funding of up to $180,000, for a total of $660,000 annually. On June 17, 2019, the Council voted to increase the FY20 budget recommendation by $90,000 from the University Avenue Parking Permit Fund for a total amount of $750,000. In July 2019, the agreement was amended to reflect the Council’s appropriation of $750,000 for FY 2020. That agreement expired on June 30, 2020.

An informational report transmitted to Council on May 26, 2020, included the 2019 TMA Annual Report, comprising commute program data, results and analysis of the Fall 2019 Downtown Commute Survey, and a summary of the 2020 Strategic Business Plan. In that month, the Council considered its annual budget during the COVID-19 pandemic. In this context, which also aligned with a lower funding request by the TMA in May, the Council voted to appropriate a reduced funding level of $453,000 for the TMA in FY 2021, and approved the use of City funds for the TMA’s programs in the California Avenue Business District as well as

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2 CMR #6823: [https://www.cityofpaloalto.org/civicax/filebank/documents/52687](https://www.cityofpaloalto.org/civicax/filebank/documents/52687)
the Downtown.\textsuperscript{5} Funding was provided under the new proposed funding agreement but was reduced further based on a November 2020 TMA request for $350,000. A new funding agreement was signed in 2020 reflecting Council’s appropriation of $350,000 in FY 2021. This agreement expires in FY 2023 and again delegates authority to the City Manager to amend the agreement to add funding if Council budgets more funds. In June of 2021, Council allocated $150,000 in funds for the TMA for FY 2022.

\textbf{Discussion}

Regular reports are required under the TMA’s funding agreement with the City. In the past year, the TMA has used City funds to purchase transit passes for low-income workers, supporting their use of transit, and to subsidize other programs such as carpooling and ride-share aimed at increasing all Downtown and California Avenue commuters’ use of alternative modes of transportation. The attached Annual Report covers the 2021 calendar year, detailing how public funds were spent to support SOV trip reduction in Downtown, including the results of the Fall 2021 Downtown Commute Survey. The attachment also includes a summary of the 2022 TMA Strategic Business Plan.

\textbf{Policy Implications}

The funding agreement between the City and the TMA requires that the TMA strategic plan be regularly updated. In addition, the transportation demand management (TDM) services provided by the TMA are consistent with the following Comprehensive Plan policies and programs:

\textbf{Policy T-1.1} Take a comprehensive approach to reducing single-occupant vehicle trips by involving those who live, work and shop in Palo Alto in developing strategies that make it easier and more convenient not to drive.

\textbf{Policy T-1.2} Collaborate with Palo Alto employers and business owners to develop, implement and expand comprehensive programs like the TMA to reduce single-occupant vehicle commute trips, including through incentives.

\textbf{Program T1.2.1} Create a long-term education program to change the travel habits of residents, visitors, shoppers and workers by informing them about transportation alternatives, incentives and impacts. Work with the PAUSD and with other public and private interests, such as the Chamber of Commerce and Commuter Wallet partners, to develop and implement this program.

\textbf{Program T1.2.4} Evaluate the performance of pilot programs implemented by the Palo Alto Transportation Management Association and pursue expansion from Downtown to California Avenue and other areas of the city when appropriate.

\textsuperscript{5} Report #11376: \url{https://www.cityofpaloalto.org/civicax/filebank/documents/76803}, Action Minutes: \url{https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=48631.05&BlobID=77870}
Program T1.2.6 Pursue full participation of Palo Alto employers in the TMA.

Policy T-1.13 Encourage services that complement and enhance the transportation options available to help Palo Alto residents and employees make first/last mile connections and travel within the city for daily needs without using a single-occupancy vehicle, including shuttle, taxi and ridesharing services.

Policy T-2.2 As part of the effort to reduce traffic congestion, seek ongoing funding and engage employers to operate and expand TMAs to address transportation and parking issues as appropriate in the City’s employment districts.

Program T2.2.1 Work in partnership with the Palo Alto TMA and Stanford University to aggregate data and realize measurable reductions in single-occupant vehicle commuting to and from Downtown and in the Stanford Research Park.

Policy T-5.5 Minimize the need for employees to park in and adjacent to commercial centers, employment districts and schools.

Program T7.1.1 Expand transportation opportunities for transit-dependent riders by supporting discounts for taxi fares, rideshare services and transit, by coordinating transit systems to be shared by multiple senior housing developments, by maintaining a database of volunteer drivers and other transit options.

Resource Impact
This item is an informational report and has no resource impact. Funding for the TMA is sourced from the University Avenue Parking Fund and is subject to City Council approval through the annual budget process.

Timeline
TMA programs operate year-round. The current funding agreement is a three-year agreement expiring at the end of FY 2023 (June 30, 2023). Any additional funds to be paid to TMA for FY 2023 would require Council appropriation and amendment of the agreement. The City Manager is authorized to amend the agreement to incorporate any additional Council appropriated funds.

Stakeholder Engagement
Monthly Palo Alto TMA Board of Directors meetings are open to the public and occur from 9:00 - 10:00am on the third Thursday of the month. Information about board meetings can be found at the Palo Alto TMA website: https://www.paloaltotma.org/

Attachments:
- Attachment13.a: TMA CY2021 Annual Report, Strategic Plan, and Commute Survey Summary
2021 Annual Report
Three-Year Strategic Plan (FY 2023-25)
2021 Commute Survey Summary

Submitted to the Palo Alto City Council
April 26, 2022

Prepared by:

Palo Alto Transportation Management Association
ALTRANS TMA Inc
855 El Camino Real #13A-200, Palo Alto, CA 94301
www.paloaltotma.org
2021 Annual Report
January 1, 2021 – December 31, 2021
Submitted to the Palo Alto City Council for the PATMA Study Session

Prepared by:
Palo Alto Transportation Management Association
ALTRANS TMA Inc
855 El Camino Real #13A-200, Palo Alto, CA 94301
www.paloaltotma.org
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2021 Annual Report

Executive Summary
On March 19, 2020, Governor Newsom declared a statewide shutdown in response to the spread of COVID-19. As a result, the number of low wage essential workers the Palo Alto Transportation Management Association (PATMA) serves – primarily those working in food service, retail, and accommodation – fell from a high of 387 workers in February 2020 to a low of 54 in April 2020. Those who could work from home did and frontline essential workers, who needed to be physically present to perform their work, abandoned mass transit and carpooling for health and safety reasons. PATMA has spent the past two years building its programs back up.

In December 2021, PATMA removed 132 cars from the road by helping service workers in Palo Alto access train and bus passes, carpool rides, and early morning/late night Lyft rides. An overview of PATMA’s metrics in December 2021 includes:

- 132 single-occupancy vehicles diverted by providing:
  - 41 GoPasses
  - 20 Caltrain passes
  - 30 VTA bus passes
  - 36 SamTrans bus passes
  - 2 Dumbarton Transbay bus passes
  - multiple Waze carpool rides equivalent to 1 rider
  - 4 Lyft riders
- at an annual cost of $1,383/single-occupancy vehicle (SOV) diverted for transit passes, $905/SOV diverted for Waze carpool, and $2,250/SOV diverted for Lyft

For a 12-month period ending December 31, 2021, PATMA programs eliminated 619,620 vehicle miles traveled and avoided 255 tons of greenhouse gases.

These numbers could continue to climb in the next year if PATMA staff has the funding to expand outreach efforts to find service sector workers willing to return to or try mass transit. Given the widespread availability of vaccines, boosters and masks, as well as mass transit’s improved cleaning protocols and upgraded ventilation systems, risks of riding mass transit have fallen dramatically for commuters.

During the pandemic, while additional people took up bicycling for exercise, PATMA worked on a new program to encourage bicycle commuting that will be rolled out soon. In late 2020, PATMA won a competitive grant from the federal Transportation Research Board for $100,000 to...
develop a fintech app with start-up ByCycling that will incentivize bicycle commuting. After beta testing this app in early 2022, PATMA will roll it out to workers in the community in mid-2022.

PATMA’s mode shift programs support the City of Palo Alto to realize goals of reduced traffic congestion, reduced parking demand in downtown, as well as the City Council’s 2021 priorities of economic recovery, housing, social justice, and climate change.

Introduction

PATMA offers innovative programs and services that help workers mode shift away from single-occupancy vehicles into trains, buses, carpools and, soon, bicycles. The service sector workers we support work primarily in food service, retail, and accommodation. After the pandemic began and the Center for Disease Control defined frontline essential workers as “workers likely at highest risk for work-related exposure to COVID-19 because their work-related duties must be performed on-site and involve being in close proximity (<6 feet) to the public or to coworkers” we realized that many of the people PATMA helps with mode shift were essential workers who could not work from home.

The pandemic disrupted the world of work in radical ways. While pre-pandemic about 5% of adults telecommuted, Figure 1 shows the extent to which employee work patterns changed for non-essential employees. Starting in early 2020, people who could work from home did. Workers who had to be physically present to do their jobs fled mass transit and carpools for the safety of their single-occupancy vehicles.

In February 2020, PATMA provided 387 service sector workers with free transit passes, Waze carpool rides, and Lyft before/after hours rides, a number that fell dramatically to 54 in April 2020 after the State of California announced a public health emergency. Two years into the pandemic, traffic congestion seems to have worsened from early pandemic times even though many workers are still working from home. Increased traffic can be explained in part by the number of essential workers who did not switch back to taking mass transit. In September 2021, Caltrain was only at 17% of its pre-pandemic ridership while VTA Light Rail was at 23%.

Another aspect that changed in the past two years is the public’s expanded interest in bicycling. During the lockdown, more people walked and bicycled as safer forms of exercise while we sheltered in place. Concurrently, PATMA developed a new incentive program to encourage more bicycle commuting that will be rolled out in 2022. With a toolkit of free transit passes, Lyft before/after hour rides, and bicycle incentives, PATMA plans to help low wage essential service workers mode shift back to the level the program enjoyed pre-pandemic and then continue to grow the program beyond those numbers.

Palo Alto City Council Priorities
While alleviating traffic congestion, reducing demand for parking downtown, and enhancing the quality of life in Palo Alto provided the original motivations for the creation of PATMA; the Palo Alto City Council overlaid additional concerns when announcing their 2021 priorities of economic recovery, housing for social and economic balance, social justice, and climate change - - protection and adaptation. In addition, the City’s Sustainability/Climate Action Plan (S/CAP) ad hoc committee has been working to develop a plan to meet the City’s ambitious 80x30 goal of reducing greenhouse gases 80% below 1990 levels by the year 2030.

PATMA’s programs address the City’s motivations and priorities listed above. Our work to shift people out of their single occupancy vehicles into alternate commute modes alleviates traffic congestion and reduces demand for parking downtown. Providing free transportation benefits to low wage service sector workers in food service, retail and accommodation provides small local business owners with a competitive advantage to attract and retain staff. By supporting commercial district small business owners, managers, and workers, PATMA indirectly contributes to the quality of life that makes Palo Alto a delightful place to live, work in, and visit. Helping people mode shift into lower greenhouse gas emission commuting options reduces the City’s emission contributions to climate change and reinforces the City of Palo Alto’s leadership on implementing innovative solutions to climate change.

2021 PATMA Staff
- Kruti Ladani, Interim Executive Director
- Steve Raney, former Executive Director
- Sana Ahmed, Program Coordinator
- Stephen Blaylock, President, ALTRANS TMA Inc.

2021 Board of Directors
- Brad Ehikian (Board President), Premier Properties
- Rob George, Philz Coffee
- Gail Price, retired
- Philip Kamhi, City of Palo Alto
TMA Programs
With funding from the University Avenue Parking Fund and the California Avenue Parking Fund, PATMA provides free Clipper Cards loaded with monthly passes for Caltrain, VTA buses, SamTrans buses or Dumbarton Transbay buses, Waze carpool, and Lyft rides. These benefits are provided to service sector employees who work in the Downtown and California Avenue areas shown in Figure 2. We continued offering Waze carpool benefits throughout 2021 although we expected Waze to end the service in early 2022. The last mode shift option PATMA currently offers is a Lyft ride which serves as a Guaranteed Ride Home for transit pass holders to use in emergency situations when they need to return home quickly, or for riders commuting less than five miles before 8am or after 8pm. Soon we will have a program that incentivizes bicycle commuting.

BikeLove
PATMA is in the process of developing a first-in-the-world “Bike Love” pilot with software partner ByCycling. When rolled out, this program will provide daily incentives for verifiable active mode first/last-mile commute trips to transit and active mode commutes from home to work, up to $599 per year per commuter. Geofenced location tracking will confirm bike, e-bike, e-scooter, and e-skateboard trips. Within 60 seconds of completing a trip, incentive dollars may be redeemed at local merchants via reloadable Apple or Google Wallet e-debit cards. By restricting transaction authorization to local merchants, municipal program funds circulate in the local economy, multiplying program impact. The Bike Love incentive app can be applied to mass transit ridership as well and scale to other cities and major employer commute programs at no cost to transit operators.

The process of securing the $100,000 Transit IDEA grant from the federal Transportation Research Board was highly competitive. Forty projects applied for grant funding and only two, including PATMA’s Bike Love project, won. Our long list of research partners, many of whom wrote letters of support, helped us secure a winning proposal. The twenty research partners include the City of Palo Alto, City of Menlo Park, City of Redwood City, local retailer Palo Alto Bicycles, the Silicon Valley Bicycle Coalition, Silicon Valley Leadership Group, Bay Area Metropolitan Transportation Commission, American Public Transit Association, Caltrain, Valley Transportation Authority, Los Angeles Metro, Commute.org, Austin Capital Metro Transit,
Caltrain’s secure bike storage vendors (BikeHub, eLock, and BikeLink), fintech industry leaders (Virtual Incentives, Marqeta, and Sutton Bank), and ALTRANS TMA, Inc. Bike Love’s total budget, including partner in-kind matching, is $346,000.

The project kicked off in February 2021 with a software development and validation phase which will be followed by a ten-month deployment phase. As we develop and implement the Bike Love app to incentivize commuting to Palo Alto job sites the team will measure program efficacy and determine scalability.

For a quick overview video, please visit this link: Bike Love in 80 seconds (video)

**Benefits of PATMA Programs**

While PATMA offers free transit passes, carpools, and Lyft rides which save service workers money on their commutes, many other benefits of these programs accrue to workers, the businesses that employ them, City government, and Palo Alto residents.

**Workers**

For service sector workers with a median annual income of $31,200, a benefit worth between $905 and $2,250 per year makes a big difference. *Figure 3* below shows the annual income of service sector workers who complete applications for either transit passes, Waze carpool, or Lyft ride benefits.

Workers who mode shift not only save money on variable personal vehicle costs such as gasoline, maintenance, and repairs, they also avoid the expense of potential parking tickets, and escape the stress of having to drive in traffic congestion. PATMA benefit recipients report that after commuting by train or bus they are better able to focus on work because they do not need to leave work every two hours to move their car. The workers who commute by active mobility mode enjoy the benefits of exercise that allow them to arrive at work energized and refreshed.

**Businesses**

For business owners and managers, PATMA’s mode shift work gives them a competitive advantage over similar businesses in nearby cities. Free transit passes help shops and restaurants attract and retain workers in a competitive industry. The service sector has a high turnover rate. According to managers in Palo Alto’s restaurants, annual employee turnover downtown is about 200% overall (16% monthly). TMA’s commute benefit program provides small businesses with a valuable perk that has helped reduce turnover by half. In *Figure 4*, compare the percent turnover of PATMA’s transit passes to the 16% turnover of Palo Alto’s service sector in general.
**Figure 3: Annual income of PATMA transit pass recipients**

![Annual income distribution graph](image)

Source: Applications from service sector workers for PATMA mode shift programs

**Figure 4: Number of transit passes activated**

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<tr>
<th>Transit Passes</th>
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<th>Mar '21</th>
<th>Apr '21</th>
<th>May '21</th>
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<th>Aug '21</th>
<th>Sep '21</th>
<th>Oct '21</th>
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<td>67</td>
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<td>0.0%</td>
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<td>5</td>
<td>6</td>
<td>6</td>
<td>4</td>
<td>7</td>
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</table>

PATMA’s mode shift programs are appreciated by service sector managers who experience less turnover and employees who save money on their transportation costs.

**Testimonials**

The following feedback from managers and employees of local businesses and non-profits show how much PATMA’s programs mean to the community.
“Using the PATMA Clipper Card helps my household in multiple ways: it allows us to own ONE fewer car (and associated costs) and makes me a better family member and employee by not having to worry about moving my car. During work I’m able to be more attentive to our customers and less stressed from driving the commute.”
- Sue M., downtown retail employee (Caltrain pass)

The Clipper Card “saves me from the traffic from San Jose to Palo Alto and wear and tear on my truck every day to and from work.”
- Ruben M., Manager, Downtown Streets Team (Caltrain pass)
“The transit pass program is an important incentive for our employees. The program allows employees to get to work without driving their vehicles which means fewer cars on Palo Alto’s residential streets and more parking spaces downtown for our customers.”
- Alejandra M., Human Resources Director, Coupa Café

“Over the past two years, I have witnessed the positive impact of PATMA’s transportation program, specifically the TMA transit passes, on the ability of our employees to commute to our shop while aligning with the company’s environmental values. The ability to have an inexpensive and convenient way to commute allows us to recruit and retain staff in a very expensive cost of living market.”
- Nathaniel D., Store Manager, Patagonia

Other testimonials from transit pass recipients include:

“I am very grateful for the transit pass, thank you so much. It’s a great help for workers in Palo Alto.”
- Ana Flores, Coconuts Restaurant (SamTrans pass)

“I appreciate that the City of Palo Alto helps us to save money especially right now with the high price of gas. It improves my quality of life by making the commute easy and saving money on other expenses. Thank you so much for supporting lower income workers.”
- Lili Yang, Walgreens Community Pharmacy (Caltrain pass)
TMA programs not only benefit the business community but also help the City of Palo Alto realize its various goals.

City of Palo Alto

Municipal governments oversee the wellbeing of residents and workers within the city’s boundaries and PATMA’s programs on the City’s behalf reduce traffic congestion, free up parking spaces downtown, and enhance the quality of life for residents by reducing the number of cars parked in neighborhoods and helping small businesses attract and retain workers. Mode shift to mass transit and active mobility options reduces greenhouse gas emissions which helps the City move closer to its S/CAP 80x30 goal. Commute survey work by the TMA in 2021 assisted the City by updating the Business Registry with more current details about the commercial sector. To top it off, each time a TMA staff member physically hands a free Clipper Card to a service sector worker, we are providing something that is valuable to them while we thank them for their contribution to the quality of life in Palo Alto.

PATMA’s Top Five Accomplishments in 2021

The first year of the pandemic decimated PATMA and since that time we have been building the program back up. As we sought to further streamline and pivot in ways that allowed us to meet the moment, the following are our top five accomplishments.

1. Rebuilt the program from a low of 54 to 132 people served.
2. Further streamlined program operation of Clipper Cards: processing new requests, communicating about pass renewals, purchasing new passes, replacing lost passes, monitoring accounts, and distributing new passes.
3. Applied for and received 49 free Caltrain GoPasses to distribute to low wage service sector workers, dramatically reducing transit pass subsidy costs.
4. Applied for and received a $100,000 grant in a highly competitive process with the federal Transportation Research Board. The grant allowed us to create a unique, tailored software
app that incentivizes bicycle commuting into downtown and California Ave with the support of ByCycling.

5. Conducted business development to expand funding sources with fee-for-service transportation demand management programs.

Diversifying Funding Sources
PATMA continues to look for ways to lower operational costs and diversify funding sources. Caltrain’s September 2021 grant of 49 GoPasses accomplished both.

GoPasses
In mid-2021, with many of its tech company employees working from home, Intuit donated 700 unused GoPasses to Caltrain in part to help Caltrain rebuild its ridership. In the same spirit, MTC donated Clipper Cards. With these donations in hand, Caltrain asked non-profits and community-based organizations in the region to apply for GoPasses that they could distribute to their community members. In September 2021, Caltrain approved 49 GoPasses for PATMA which were good through the end of the calendar year. This gift saved PATMA $25,000 on transit passes over four months as PATMA operations staff converted 87.5% of the Caltrain passes we were purchasing on a monthly basis over to GoPasses.

This program builds on Caltrain’s equity analysis which was completed in January 2021. Caltrain reviewed the GoPass program in which tech companies purchased bulk-discounted annual GoPasses for all company employees at a much lower rate than the market price: $342/year for GoPasses purchases versus $1,570/year for the market rate for Caltrain passes.

Highlights of Caltrain’s equity analysis found that the transit agency “shall prioritize the needs of riders and communities who depend on transit for essential travel;” and committed to “enhance equity in its system, making its services more accessible and relevant to lower income people and members of racial groups and communities who have historically been marginalized and overlooked in planning and government processes.” The GoPass program helps Caltrain make good on these commitments and plans to continue the program through 2022.

231 Grant Avenue
In another step toward diversifying funding sources, PATMA staff has been conducting business development to find opportunities for transportation demand management (TDM) fee-for-service work. The educator workforce housing development planned for 231 Grant Ave in Palo Alto is an example of this type of work. PATMA developed a Collaborative TDM Strategies Analysis for Abode Communities and Mercy Housing regarding the planned development for 110 new housing units for teachers, faculty and staff at 231 Grant Ave. TDM measures outlined include:

- Green transportation pledge and early touchpoints
- Community-based travel planning
• Bicycling promotion
• Caltrain GoPasses
• Transit discounts
• Ridesharing
• Transit oriented development built-in trip reduction
• Consolidated package delivery
• Commute and travel surveys
• Transit screen in the library
• Program metrics and reporting

The analysis includes other, more aspirational TDM measures as well then evaluates combinations of TDM programs that will cost-effectively achieve required vehicle miles traveled reductions and trip caps given base conditions.

Marriott Hotels
For two new Marriott hotels at 744-750 San Antonio Rd., PATMA helped write their TDM plan in 2021. The plan includes 33 trip reduction measures in four categories: TDM infrastructure, guest programs, employee programs, and dual guest and employee programs that would reduce peak hour trips by 20%. Of these 33 TDM measures, Marriott will be responsible for 22 and PATMA will administer 11. Once the Marriotts’ TDM plans are approved by the City, PATMA will provide fee-for-TDM-service for the hotels.

Current PATMA Funding and Expenses

PATMA was awarded $350,000 by the City of Palo Alto for Fiscal Year 2021 which spanned July 1, 2020 through June 30, 2021. Funding was allocated and expenses incurred in support of PATMA’s mission to “reduce SOV trips, traffic congestion and demand for parking by delivering targeted transportation solutions to Palo Alto’s diverse range of employers, employees, visitors and residents.”

Figure 6 illustrates the breakout of program funding and expenses including one-quarter of the $100,000 grant from the federal Transportation Research Board.
Figure 6: Overview of 2021 income and expenses

Figure 7: Detailed 2021 income and expenses

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<thead>
<tr>
<th>Category</th>
<th>Jan '21</th>
<th>Feb '21</th>
<th>Mar '21</th>
<th>Apr '21</th>
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Figure 8 shows the breakdown of expenses from January 1, 2021 through December 31, 2021. TMA management expenses include program oversight, communications with stakeholders, finance and accounting activities, managing board meetings, maintaining 501c3 non-profit status, tax filing, and pursuing business development opportunities to diversify funding sources; whereas program operation labor involves processing new transit pass requests, communicating about pass renewals, purchasing new passes, replacing lost passes, distributing new passes, and monitoring accounts.

Figure 8: PATMA expenses

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<th>PATMA Expenses</th>
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<th>Q3 '21</th>
<th>Q4 '21</th>
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<td>Lyft</td>
<td>$4,672</td>
<td>$4,715</td>
<td>$4,452</td>
<td>$3,615</td>
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<tr>
<td>Commute Survey</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$25,000</td>
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<tr>
<td>TRB Grant</td>
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<td>$0</td>
<td>$0</td>
<td>$7,500</td>
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<tr>
<td>Rent, office, insurance, legal</td>
<td>$149</td>
<td>$1,220</td>
<td>$720</td>
<td>$1,599</td>
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<tr>
<td>Total</td>
<td>$65,129</td>
<td>$78,837</td>
<td>$75,351</td>
<td>$98,055</td>
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</table>

Expenses in 2021 totaled $317,372.

Program Results
The results of the TMA’s program management, outreach, and program operation labor in Figure 9 – Figure 13 depict the number of single-occupancy vehicle (SOV) commuters shifted, number of transit passes distributed at specific businesses in Palo Alto, the cost per SOV avoided, the number of avoided vehicle miles travelled, and tons of greenhouse gas reduced.

Figure 9: Number of commuters shifted from single-occupancy vehicles

<table>
<thead>
<tr>
<th></th>
<th>Q1 '21</th>
<th>Q2 '21</th>
<th>Q3 '21</th>
<th>Q4 '21</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transit pass subsidy</td>
<td>76.3</td>
<td>99.7</td>
<td>103.3</td>
<td>118.7</td>
</tr>
<tr>
<td>Waze carpool</td>
<td>0</td>
<td>0.1</td>
<td>0</td>
<td>0.7</td>
</tr>
<tr>
<td>Lyft</td>
<td>7.9</td>
<td>7.7</td>
<td>6.1</td>
<td>5.2</td>
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<tr>
<td>Total</td>
<td>84.2</td>
<td>107.5</td>
<td>109.4</td>
<td>124.6</td>
</tr>
</tbody>
</table>
Figure 10: Number of transit passes distributed by employer

<table>
<thead>
<tr>
<th>Organization</th>
<th>Transit passes</th>
<th>Organization</th>
<th>Transit passes</th>
<th>Organization</th>
<th>Transit passes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Westin Hotel</td>
<td>11</td>
<td>Warby Parker</td>
<td>2</td>
<td>MNT Studio</td>
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<tr>
<td>Downtown Streets Team</td>
<td>7</td>
<td>Yayoi</td>
<td>2</td>
<td>Nola</td>
<td>1</td>
</tr>
<tr>
<td>Crepevine</td>
<td>6</td>
<td>Bell’s Books</td>
<td>1</td>
<td>Onigilly</td>
<td>1</td>
</tr>
<tr>
<td>Apple</td>
<td>5</td>
<td>AT&amp;T</td>
<td>1</td>
<td>Patagonia</td>
<td>1</td>
</tr>
<tr>
<td>Nobu Hotel</td>
<td>5</td>
<td>Bryant St Gallery</td>
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<td>Peninsula Creamery</td>
<td>1</td>
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<tr>
<td>Patxi’s Pizza</td>
<td>5</td>
<td>Buca di Beppo</td>
<td>1</td>
<td>Pizz’a Chicago</td>
<td>1</td>
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<tr>
<td>Sheraton Hotel</td>
<td>5</td>
<td>Whole Foods</td>
<td>1</td>
<td>Pizzeria Delfina</td>
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</tr>
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<td>Patxi’s Pizza</td>
<td>2</td>
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<tr>
<td>Crepevine</td>
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<td>Nobu Hotel</td>
<td>1</td>
<td>Onigilly</td>
<td>1</td>
</tr>
<tr>
<td>Apple</td>
<td>5</td>
<td>Whole Foods</td>
<td>1</td>
<td>Patagonia</td>
<td>1</td>
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<tr>
<td>Nobu Hotel</td>
<td>5</td>
<td>Coupa Cafe</td>
<td>3</td>
<td>Protégé</td>
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<tr>
<td>Patxi’s Pizza</td>
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<td>Oren’s Hummus</td>
<td>3</td>
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<tr>
<td>Sheraton Hotel</td>
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<td>Reposado</td>
<td>3</td>
<td>The Hamilton</td>
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<tr>
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<td>Rooh</td>
<td>3</td>
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<tr>
<td>Crepevine</td>
<td>6</td>
<td>Webster House</td>
<td>3</td>
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<tr>
<td>Apple</td>
<td>5</td>
<td>Clement Hotel</td>
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<td>Wahlburger</td>
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<tr>
<td>Nobu Hotel</td>
<td>5</td>
<td>Lytton Gardens</td>
<td>2</td>
<td>Watercourse Day Spa</td>
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<td>Patxi’s Pizza</td>
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<td>Palo Alto Bicycles</td>
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<td>1</td>
</tr>
<tr>
<td>Sheraton Hotel</td>
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<td>San Agus Cocina</td>
<td>2</td>
<td>Zareen’s</td>
<td>1</td>
</tr>
<tr>
<td>Downtown Streets Team</td>
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<td>Starbucks</td>
<td>2</td>
<td>La Bodeguita del Medio</td>
<td>-</td>
</tr>
<tr>
<td>Crepevine</td>
<td>6</td>
<td>Sweetgreen</td>
<td>2</td>
<td>Massage Therapy</td>
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</table>

Figure 11: Cost per SOV avoided per year

<table>
<thead>
<tr>
<th></th>
<th>Q1 2021</th>
<th>Q2 2021</th>
<th>Q3 2021</th>
<th>Q4 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transit pass subsidy</td>
<td>1,722</td>
<td>1,405</td>
<td>1,242</td>
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<tr>
<td>Waze carpool</td>
<td>905</td>
<td>905</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Lyft program</td>
<td>2,428</td>
<td>2,516</td>
<td>2,476</td>
<td>2,250</td>
</tr>
</tbody>
</table>

Over the four quarters of this annual report, the cost per transit pass subsidy falls dramatically. Part of the reason is that Caltrain gave a 20% discount from April to September 2021 at which point they then provided a 50% discount. This was done to help rebuild their ridership.

Figure 12: Avoided vehicle miles traveled (VMT)

<table>
<thead>
<tr>
<th></th>
<th>Q1 2021</th>
<th>Q2 2021</th>
<th>Q3 2021</th>
<th>Q4 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transit pass subsidy</td>
<td>117,395</td>
<td>153,279</td>
<td>158,918</td>
<td>182,500</td>
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<tr>
<td>Waze carpool</td>
<td>73</td>
<td>122</td>
<td>-</td>
<td>1,444</td>
</tr>
<tr>
<td>Lyft program</td>
<td>1,414</td>
<td>1,672</td>
<td>1,695</td>
<td>1,108</td>
</tr>
<tr>
<td>Total VMT avoided</td>
<td>118,882</td>
<td>155,073</td>
<td>160,613</td>
<td>185,052</td>
</tr>
</tbody>
</table>

Totaled for the year, PATMA programs reduced vehicle miles travelled by 619,620.
In CY 2021, PATMA reduced greenhouse gas emissions by 255 tons.

Conclusion
As the public health situation continues to evolve and we monitor discussions about the return to office, PATMA will continue to grow and evolve our programs to help more commuters shift out of single-occupancy vehicles. We believe that with targeted outreach and motivational incentives, we will be able to move hundreds more people out of SOVs and back into mass transit and active mobility options. In support of this mode shift goal, PATMA will continue to pursue diverse funding streams that will allow us to expand our efforts to address social equity and climate change issues while reducing the City’s foundational concerns about traffic congestion and available parking in commercial areas and the surrounding residential areas.
Three Year Strategic Plan

July 1, 2022 – June 30, 2025

Submitted to the Palo Alto City Council for the PATMA Study Session

Prepared by:

Palo Alto Transportation Management Association
ALTRANS TMA Inc
855 El Camino Real #13A-200, Palo Alto, CA 94301
www.paloaltotma.org
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Three Year Strategic Plan
FY 2023-2025

Executive Summary
The Palo Alto Transportation Management Association (PATMA) has diversified its funding sources to introduce new programs and expand beyond the downtown and California Ave areas. Over the next year, we will continue to apply for additional funding from potential Climate Partners and Equity Partners that will allow us to grow the number and types of programs we offer, and expand our services to more parts of Palo Alto.

In consideration of the constraints on the University Avenue Parking Fund revenues over the past two years, and in the interest of rebuilding existing mode shift programs, PATMA requests a budget of $200,000 for FY 2022-23.

Introduction
The next year will be a time of pivoting and rebuilding. Right before the pandemic started, the Palo Alto TMA helped 387 service sector workers shift out of single occupancy vehicles (SOVs) and into mass transit, carpools or early morning/late night ride-sharing services. In April 2020, that number fell to 54. For health and safety reasons, essential workers who needed to be onsite to do their jobs fled mass transit and carpools to commute in SOVs. Now that society has tools to manage the risks of the pandemic – vaccines, boosters, masks, social distancing, improved ventilation systems and cleaning protocols on mass transit – and keeping in mind changes in travel mode preferences, it’s time to take a look at how PATMA can pivot to meet the moment.

When the Palo Alto City Council decided to form PATMA in 2013, the stated goals of the founders included reducing SOV trips, traffic congestion, and demand for parking downtown and in surrounding neighborhoods. In 2021, we overlaid the City Council’s strategic priorities of economic recovery, housing, social equity, and climate change to focus our non-profit’s efforts. PATMA’s programs help address all of these goals and priorities by providing essential workers – mostly in food service, retail, and accommodation – with commute counseling, access to free transit passes, and early morning/late night ride-sharing services.

Given the changes the pandemic has wrought as well as changing societal preferences, this plan will explain how PATMA will diversify funding sources and develop new programs that serve a
broader geographic area than downtown and California Avenue, while reducing the cost per SOV diverted, greenhouse gases, and vehicle miles traveled.

**Current Programs**

In December 2021, PATMA removed 132 cars from the road by helping service workers in Palo Alto access train and bus passes, carpool rides, and early morning/late night Lyft rides. An overview of PATMA’s metrics in December 2021 includes 132 single-occupancy vehicles diverted by providing:

- 41 GoPasses
- 20 Caltrain passes
- 30 VTA bus passes
- 36 SamTrans bus passes
- 2 Dumbarton Transbay bus passes
- multiple Waze carpool rides equivalent to 1 rider
- 4 Lyft riders

For the 12-month period ending December 31, 2021, PATMA programs eliminated 619,620 vehicle miles traveled and avoided 255 tons of greenhouse gases in support of the City of Palo Alto’s Sustainability/Climate Action Plan work.

**New Programs**

**Bike Love Incentive Program**

The Palo Alto TMA is developing a first-in-the-world “Bike Love” pilot with software partner ByCycling. This program will provide daily incentives for verifiable active mode first-mile commute trips to transit and active mode commutes from home to work, up to $599 per year per commuter. Geofenced location tracking will confirm bike, e-bike, e-scooter, and e-skateboard trips. Within 60 seconds, incentive dollars may be redeemed at local merchants via Apple/Google Wallet e-debit cards. By restricting transaction authorization to local merchants, program funds are recycled back into the local economy, multiplying program impact. Bike Love scales to other cities and major employer commute programs, increasing transit ridership at no cost to transit operators.

The process of securing the $100,000 Transit IDEA grant from the federal Transportation Research Board was highly competitive. Forty projects applied for grant funding and only two, including PATMA’s Bike Love project, won. Our long list of research partners, many of whom wrote letters of support, helped us secure a winning proposal. The twenty research partners include the City of Palo Alto, City of Menlo Park, City of Redwood City, local retailer Palo Alto 1

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1 In 2021, a large number of GoPasses were donated by a tech company and given to Caltrain to distribute to community-based organizations like PATMA.
Bicycles, the Silicon Valley Bicycle Coalition, Silicon Valley Leadership Group, Bay Area Metropolitan Transportation Commission, American Public Transit Association, Caltrain, Valley Transportation Authority, Los Angeles Metro, Commute.org, Austin Capital Metro Transit, Caltrain’s secure bike storage vendors (BikeHub, eLock, and BikeLink), fintech industry leaders (Virtual Incentives, Marqeta, and Sutton Bank), and ALTRANS TMA, Inc. Bike Love’s total budget, including partner in-kind matching, is $346,000.

The project kicked off in February 2021 with a software development and validation phase which will be followed by a 10-month deployment phase. As we develop and implement the Bike Love app to incentivize commuting to Palo Alto job sites, the team will measure program efficacy and determine scalability as we build toward 90 users at the end of the first year. For a quick overview, please visit this link: Bike Love in 80 seconds (video)

E-bike Loaner Program
PATMA is planning an electric bike loaner program patterned on Santa Barbara’s EZ Bike program. Each week, Santa Barbara loaned out e-bikes to residents for five days at a time and through post-loan surveys found that 38% of those who borrowed an e-bike purchased their own e-bike within two months. Program planning is in the beginning stages for PATMA’s own e-bike loaner program. Given the many benefits of e-bikes, we expect an uptick in bicycling as the preferred method of transportation for commuting and personal trips around town as a result of this new program.

Value of Palo Alto TMA
Local businesses in the downtown and California Avenue areas contribute to a delightful quality of life in Palo Alto. During the economic downturn caused by the pandemic, many of these businesses struggled to retain and attract staff. PATMA’s program support of free transit passes gives local businesses a competitive advantage for staffing.

As workers Return to Office, PATMA has an opportunity to shape future workers’ commuting habits by diverting SOV drivers to mass transit and active mobility modes. This will reduce the number of cars parking downtown and in neighborhoods which North Palo Alto residents will appreciate.

City government benefits from the annual commute survey PATMA undertakes which helps to update the Business Registry, as well as PATMA’s work to reduce greenhouse gas emissions and vehicle miles traveled.

Palo Alto’s Sustainability/Climate Action Plan Work
The City of Palo Alto demonstrated its leadership on climate change in 2016 when setting an ambitious greenhouse gas emissions reduction goal: 80% below 1990 levels by 2030. Since 65% of the current GHG emissions come from the transportation sector, PATMA is positioned to play
a key role in realizing this goal by raising awareness about the benefits of mode shift, offering commute counseling, and providing incentives for mode shift.

According to the June 7, 2021 Palo Alto Action Impact Memo from AECOM, which details actions that can reduce 184,173 metric tons of CO2 equivalents/year and achieve an 71% reduction of GHGs below 1990 levels by 2030, a little over 10% of those potential emission reductions are expected to come from mobility shifts commuters (15,157 MT CO2e/year) and residents (4,392 MT CO2e/year) could make. In the next three years, PATMA plans to work on the following in support of the City’s commendable GHG reduction goals.

**Strategic Planning**

In November and December 2021, PATMA’s Board of Directors met three times to discuss strategic planning issues. The following goals, strategies, objectives and strategic planning matrix came out of these meetings.

**Goals**

Planning for the next three years, the PATMA board of directors would like to accomplish the following goals:

- Help rebuild mass transit ridership to pre-pandemic levels
- Shape the future of commuting in Palo Alto as workers Return to Office (RTO)
- Support local businesses in food service, retail, and accommodation to speed the economic recovery
- Help address climate change
- Diversify funding sources
- Raise awareness about and incentivize active mobility options
- Expand PATMA services to parts of Palo Alto beyond downtown and California Avenue
- Manage cash flow in the face of possible changing conditions

**Strategies**

The following strategies will help us achieve goals outlined above:

- Apply for additional funding from new funding sources interested in supporting greenhouse gas reductions and social equity issues
• Introduce new programs to raise awareness about active mobility travel options and incentivize the switch
• Connect PATMA programs with Sustainability/Climate Action Plan (S/CAP) greenhouse gas reduction goals
• Use additional funding sources to offer current and new programs in new markets

Objectives
Specific, measurable objectives for the next year that will help us achieve these goals include:

• Increasing the number of transit passes distributed to low wage service sector workers back to the pre-pandemic level (387 SOV diverted) if funding allows
• Reducing the cost per SOV diverted ($1,382.50/SOV in 2021)
• Reducing greenhouse gas emissions from the transportation sector (65% in Palo Alto’s greenhouse gas emissions inventory)
• Reducing vehicle miles traveled
• Encouraging mode shift for residents’ personal trips around town
• Adding two board members in 2022 for a total of five board members

Figure 2: Strategic Planning Matrix

<table>
<thead>
<tr>
<th>Existing Markets (downtown and California Ave)</th>
<th>Existing Programs</th>
<th>New Programs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transit pass program</td>
<td></td>
<td>Bicycling incentive pilot</td>
</tr>
<tr>
<td>Lyft before/after hours</td>
<td></td>
<td>E-bike loaner pilot</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>New Markets (Town &amp; Country, El Camino Real, San Antonio Ave.)</th>
<th>Existing Programs</th>
<th>New Programs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expand existing programs throughout the city with diversified funding sources</td>
<td></td>
<td>Bicycling incentive pilot</td>
</tr>
<tr>
<td></td>
<td></td>
<td>E-bike loaner pilot</td>
</tr>
</tbody>
</table>

Workplan
Year 1
In the next year, PATMA is planning to rebuild partially to the pre-pandemic level of SOV diversion, diversify funding sources, and lower the cost/SOV diverted. The following seven tasks are planned for FY 2023: adding two new board members, creating a marketing plan, beta testing and rolling out our new BikeLove incentive app, developing and rolling out an electric bike loaner program, conducting the 2022 commute survey, coordinating with nearby TMAs to share best practices, as well as continuing to provide existing commute counseling and free transit passes. Figure 3 shows the timeframe for each task.
Figure 3: Year 1 Workplan

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</tr>
</thead>
<tbody>
<tr>
<td>Task 1 – Add two new board members</td>
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<td>Task 2 – Create marketing plan</td>
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</tr>
<tr>
<td>Task 3 – Beta test and roll out Bike Love incentive program</td>
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</tr>
<tr>
<td>Task 4 – Develop and roll out e-bike loaner program</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Task 5 – Conduct 2022 commute survey</td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Task 6 – Coordinate best practices with nearby TMAs</td>
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<td></td>
<td></td>
</tr>
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<td>Task 7 – Continue providing existing programs</td>
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<td></td>
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<td></td>
<td></td>
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</tr>
</tbody>
</table>

As we secure additional funding, we would like to expand service to other parts of the city: Town & Country Village, and businesses along El Camino Real and San Antonio Rd.

Year 2
In FY 2024, we plan to rebuild to the pre-pandemic level of transit passes and incorporate lessons learned from the bicycle incentive program and e-bike loaner program. Based on how the public health situation evolves, we plan to expand programs in ways that make sense with the emerging situation.

We will continue to track developments of the Caltrain electrification project which will attract additional riders once it is complete and explore possible new ways to educate and incentivize workers for first/last mile travel options. We will also continue to monitor developments for Mobility as a Service (MaaS) apps that help riders more efficiently plan, pay for, and transfer between multiple commute modes, as well as the development of a bicycle superhighway on El Camino Real.

Year 3
In FY 2025, we will identify service gaps to develop new programs and implement emerging mobility technology while continuing to expand programs that divert SOVs and reduce traffic congestion downtown, in the Cal Ave business district, and in other parts of the city. We will build upon bicycle and e-bicycle programs for commuters who live within 6 miles of work and residents who would prefer to run errands with an active mobility mode.
Budget Projections

Looking back at funding levels since the start of the Palo Alto TMA, the program grew over several years and demonstrated successes with SOV diversion, GHG reduction, and VMT reduction until the pandemic hit.

- FY 2016 - $100,000
- FY 2017 - $100,000
- FY 2018 - $480,000
- FY 2019 - $480,000
- FY 2020 - $750,000
- FY 2021 - $350,000
- FY 2022 - $150,000

As we seek to build the program back, PATMA’s funding request for FY 2023 is $200,000. Reasons that factor into this funding level request include:

- University Ave Parking Fund revenues are down from pre-pandemic levels and it is unclear when they will rebound.
- Many businesses and government agencies are planning a Return to Office (RTO) this spring and summer which, depending on future Covid strains and public health department guidance, may be curtailed.
- Office workers who have been working from home (WFH) have shown they are as productive if not more productive than when they commuted to an office. A RTO may be a few days/week instead of the pre-pandemic five days per week.
- Reduced risk of taking mass transit - Vaccination and booster rates in the Bay Area are high. People are accustomed to wearing masks in public areas. Mass transit systems have upgraded onboard ventilation systems and have rigorous cleaning protocols in place.
- PATMA is diversifying its funding streams as it pivots to add an active mobility incentive and e-bike loaner program.
- PATMA would like to continue serving the frontline essential employees working in food service, retail, and accommodation with subsidies of transit passes, early morning/late night rides home, and soon bicycling programs.

With cost of living adjustments from the FY 2022 budget, an assumption that GoPass donations will continue through the end of 2022, the balance of the Transportation Research Board grant, and income of $200,000 from the City of Palo Alto, PATMA projects the following budget for FY 2023.
Figure 4: FY 2023 Income and Expenses

<table>
<thead>
<tr>
<th>Category</th>
<th>Q3</th>
<th>Q4</th>
<th>Q1</th>
<th>Q2</th>
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<td>Sep '22</td>
<td>Oct '22</td>
</tr>
<tr>
<td></td>
<td>$50,000</td>
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<td>Amazon</td>
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<td></td>
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<td></td>
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<tr>
<td>TRB Bike Love Grant</td>
<td>$40,000</td>
<td>$15,000</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
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<td>$20,000</td>
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<td>TOTAL INCOME</td>
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<td></td>
<td>$25,000</td>
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EXPENSES

<table>
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<tr>
<th>Category</th>
<th>Jul '22</th>
<th>Aug '22</th>
<th>Sep '22</th>
<th>Oct '22</th>
<th>Nov '22</th>
<th>Dec '22</th>
<th>Jan '23</th>
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<th>Mar '23</th>
<th>Apr '23</th>
<th>May '23</th>
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<tr>
<td>Altrans Management</td>
<td>$6,640</td>
<td>$6,640</td>
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<td>$6,640</td>
<td>$6,640</td>
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<tr>
<td>Biz (software, office supplies, insur, etc.)</td>
<td>$322</td>
<td>$322</td>
<td>$322</td>
<td>$322</td>
<td>$322</td>
<td>$322</td>
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<td>Lyft</td>
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<td>$1,454</td>
<td>$1,454</td>
<td>$1,454</td>
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<tr>
<td>Program Operation - Altrans Labor</td>
<td>$6,640</td>
<td>$6,640</td>
<td>$6,640</td>
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<tr>
<td>Adjusted Transit - Clipper Cards</td>
<td>$14,640</td>
<td>$14,347</td>
<td>$14,060</td>
<td>$13,779</td>
<td>$13,503</td>
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<td>BikeLove Incentives</td>
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<td>Commute Survey</td>
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<tr>
<td>TRB Grant</td>
<td>$40,000</td>
<td>$15,000</td>
<td></td>
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<tr>
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<td>$45,117</td>
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<td>$30,512</td>
<td>$55,763</td>
<td>$31,019</td>
<td>$31,280</td>
</tr>
</tbody>
</table>

As circumstances change, we have the ability to adjust our income and expenses through various financial levers.

- reducing labor costs
- reducing program costs via throttling
- requesting additional GoPasses from Caltrain and large employers in the area
- increasing grant writing and philanthropic fundraising
- growing our fee-for-TDM planning and program administration business
- pursuing short-term loans

While PATMA’s FY 2023 budget request is for $200,000, with higher levels of funding, PATMA could serve more people with transit passes, Lyft early morning/late night rides home, and bicycle incentives. Consider Figure 5 which provides the return on investment for various levels of funding: 175, 325, 430, 585 or 740 single occupancy vehicles removed. Note that the cost per SOV diverted will fall as we provide relatively more bicycle incentives and fewer transit passes.

Figure 5: ROI for Various Levels of Funding

| Category                          | Cost per worker | # SOV diverted | Cost per worker | # SOV diverted | Cost per worker | # SOV diverted | Cost per worker | # SOV diverted | Cost per worker | # SOV diverted | Cost per worker | # SOV diverted |
|-----------------------------------|-----------------|----------------|-----------------|----------------|-----------------|----------------|-----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Transit passes                    | $1,383          | 150            | $207,375        | 250            | $345,625        | 300            | $414,750        | 350            | $483,875        | 400            | $553,000       |
| Lyft                              | $2,250          | 15              | $33,750         | 25              | $56,250         | 30              | $67,500         | 35              | $78,750         | 40              | $90,000         |
| Bicycle incentives               | $599            | 10             | $5,990          | 50              | $29,950         | 100             | $59,900         | 200             | $119,800        | 300             | $179,700        |
| Management and Operations Labor  | $152,000        |                | $167,200        |                | $182,400        |                | $197,600        |                | $212,800        |
| Cost                             | $399,115        |                | $599,025        |                | $724,550        |                | $880,025        |                | $1,035,500      |
Conclusion

We have a rare opportunity to shape the future of commuting in Palo Alto. The pandemic forced people who could work from home to do so and shifted essential workers to single-occupancy vehicles for health and safety reasons. Now that we have tools to manage risks with the public health situation, PATMA could play a bigger role in rebuilding new travel habits that take advantage of the area’s transit pipelines and bicycling infrastructure.

With so many uncertainties around Return to Office, commute patterns, the public health situation, as well as the continuing development of mass transit infrastructure, first/last mile active mobility options, and Mobility as a Service (MaaS) technologies to help plan, pay for and manage the commute; PATMA will continue to monitor opportunities to better serve our target audience with the latest information and incentives that enable mode shift. We will also continue to look for additional funding opportunities with potential Climate Partners and Equity Partners as the more funding we have, the more people we can help.
2021 Commute Survey
Highlights

Between October and December 2021, Palo Alto Transportation Management Association (PATMA) staff surveyed workers at 1,615 organizations in the University Avenue Downtown and California Avenue (Cal Ave) areas to learn about their commute habits and preferences. Staff conducted online and in-person surveys in English and Spanish through door-to-door canvassing, cold calling, and mass emailing. This document provides the highlights of the survey’s findings.

The total worker population for the Downtown and Cal Ave areas, according to U.S. Census “OnTheMap” data, shows 16,961 workers in census tracts in the University Ave downtown area and 3,056 workers in census tracts in the Cal Ave area. The PATMA 2021 commute survey interviewed 362 people in Downtown, 29 people on Cal Ave, and 160 City staff who work in other areas of town.

Performing a survey during the pandemic presented challenges including the large number of people working from home, buildings that were closed to the public, and the high amount of vacant office space. Among workers surveyed in the government, light office, service, and technology sectors, Figure 1 shows how COVID impacted employment Downtown and on Cal Ave. Large numbers of government and light office employees started working from home. Many service sector workers experienced reduced hours or quit. Of the two large tech firms that participated in the 2019 commute survey, one did not participate in this year’s survey and the other moved its offices out of Palo Alto.

Part of the purpose of the PATMA commute survey is to better understand how employees travel to and from work. Figure 2 tracks mode share – either driving single-occupancy vehicles (SOV), taking mass transit, walking/biking, carpooling, or telecommuting – over the past six commute surveys and illustrates that mass transit ridership fell precipitously last year while telecommuting and SOV driving rose. For health and safety reasons, workers who could work from home during COVID did and more people who commuted to jobs drove their personal vehicles.
Workers on Cal Ave, who were included for the first time in this survey, showed higher rates of SOV driving and much lower rates of transit riding and telecommuting than Downtown workers. Figure 3 compares mode share for the two commercial districts.

Figure 3: Downtown v. California Ave Commute Mode Share Comparison
In terms of where workers are commuting from, Figure 4 shows the home zip codes of survey respondents. The zip code with the darkest shade, containing 31 respondents, is 94303 in East Palo Alto.

Survey data show that 9% of workers live within Palo Alto; 16% come from the neighboring communities of East Palo Alto, Menlo Park, Redwood City, Mountain View, and Sunnyvale; and 18% of workers surveyed commute from San Jose.

As we plan future PATMA programs for workers that inform them about alternative commute options and provide incentives to mode shift, a few findings from this year’s commute survey will be useful.

- 59% of workers surveyed earned less than $70,000/year (the threshold for participation in our free transit pass and Lyft guaranteed ride home programs)
- 37% of respondents expressed interest in our upcoming BikeLove incentive program (up to $599/year for active commutes to the geofenced destination of the Downtown area)
- 58% of businesses in the two main commercial areas are in light office (medical offices, financial, legal, accounting) which shows the opportunity to develop programs that meet their needs
City of Palo Alto
Office of the City Clerk
City Council CAO Report

Meeting Date: 5/9/2022
Report Type:

Title: Informational Report Regarding the November 8, 2022 General Municipal Election, Related Schedules, Fees, and Length of Candidate Statements

From: Lesley Milton, City Clerk

This is an informational report. The City Clerk is required to bring a report regarding specific deadlines for the November 8, 2022 election, fees and length of candidates' statements.

EXECUTIVE SUMMARY

1. **Filing Fee**
Pursuant to Palo Alto Municipal Code Section 2.40.030, filing of nomination petitions, "Any person otherwise qualified may be a candidate for an elective office at any election, regular or special, by filing with the clerk within the time prescribed in the Elections Code of California a petition signed by at least twenty-five qualified and registered voters. Any duly established candidacy filing fee shall be waived for each candidate who files a petition signed by at least four qualified or registered voters for each dollar of such filing fee."

   Palo Alto charges a fee of $25 for filing nomination papers. If a candidate wishes to waive the filing fee, the nomination petition would require at least 100 qualified or registered voters' signatures.

2. **Charges for and Length of Candidates' Statements**
Under California Elections Code Section 13307 sets forth requirements for candidate statements that will appear in the voter information guide. Under Section 13307, statements are limited to 200 words unless the City Council authorizes statements up to 400 words. In addition, Section 13307 provides that before the General Municipal Election nomination period opens, the City Council shall determine whether a charge is to be levied to candidates for printing and mailing their statements in the voter information guide. The Santa Clara County Registrar of Voters has indicated that for this November General Municipal Election, the cost for printing a candidates' statement of 200-words is estimated to be $2,949 and a 400-word statement is estimated to be $4,122. Historically, the City Council Resolution calling the election has not authorized the
lengthier statements and has not levied a charge on candidates for their candidate statement.

3. **Deadlines for the November 8, 2022 Election**
   Included as attachment A to this report is a calendar of deadlines for the election in Santa Clara County, including the requirement for the City to adopt a resolution calling for an election on November 8, 2022, deadlines to submit ballot measures to be on the ballot, the nomination filing period for qualifying City Council Candidates. The Clerk’s Office will place a Resolution on a future Council agenda for adoption and approval before July 6, 2022.

   The most notable deadlines for the November 8, 2022 election are as follows:

   **Before July 6, 2022**
   City Council must adopt a Resolution Calling for an Election and submit it to the Santa Clara County Registrar of Voters

   **July 18 – August 12, 2022**
   Nomination period to qualify candidates for City Council for the ballot

   **August 13 – 17, 2022**
   Extension of the Nomination Period if an incumbent does not file

   **July 28 – August 12, 2022**
   Measure Resolutions and Tax Rate Statements must be submitted to the Registrar of Voters to be considered on the ballot

   **October 24, 2022**
   Last day to register to vote for the November 2022 election

   **November 8, 2022**
   Election Day

   **December 8, 2022**
   Last day for the Canvass of the Vote and Certification of the election results

**FISCAL IMPACT**
The Santa Clara County Registrar of Voters (SCCROV) has issued a cost estimate for the 2022 election at $150,927 for the election of three council seats. Additionally, should the City choose to add ballot measures to the November election, the cost estimate would be an additional $79,759 for each ballot measure (this estimate is based on 6-page ballot measure printed in the voter guide).
In addition to the above costs, the SCCROV has indicated that the cost of Candidate statements is estimated to be $2,949 for the printing costs associated with a 200-word statement and $4,122 for printing a 400-word statement. Historically, although there is no formal policy establishing this process, the City has not charged nor sought reimbursement from candidates for the printing of Candidate Statements within the ballot guide and has absorbed the cost within the Clerk’s Office budget. This cost is separate from the $25 Candidate Nomination filing fee that is included in the adopted fee schedule.

ENVIRONMENTAL ASSESSMENT

None.

ATTACHMENTS:

- Attachment14.a: Attachment A: Amended Abbreviated Primary General Election - November 8, 2022 (PDF)
## AMENDED ABBREVIATED GUBERNATORIAL GENERAL ELECTION CALENDAR

**November 8, 2022**

**County of Santa Clara Registrar of Voters**

The below calendar was amended on November 4, 2021 to add run-off candidate information.

This calendar may not contain all candidate or district filing requirements. The Office of the Registrar of Voters is not open for filings on Saturday, Sunday or holidays.

1 Refer to California Elections Code §§9190, 9295, 9380, 9509, 13313, and 13314 for details of public examination periods and writ of mandate.

2 The period covered by any statement begins on the day after the closing date of the last statement filed, OR January 1st, if no previous statement has been filed.

3 Date falls on a weekend or public holiday; deadlines move forward to the next business day as noted with the respective effected date.

4 Arguments and Rebuttal Arguments for City measures must be filed with the City Clerk’s office. Contact the City Clerk’s office for filing deadlines.

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### Activity Periods and Due Date(s)

<table>
<thead>
<tr>
<th># of Days Prior to or Following Election</th>
<th>Activity Periods and Due Date(s)</th>
<th>ACTIVITIES / DOCUMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>E- 125</td>
<td>Wednesday, July 6, 2022</td>
<td><strong>RESOLUTIONS TO BE SUBMITTED TO THE ROV</strong> Date for jurisdictions to submit resolutions calling for a candidate election to meet timeline for a full nomination period. The ROV encourages jurisdictions to provide a resolution as early as possible.</td>
</tr>
<tr>
<td>E- 113</td>
<td>Monday, July 18, 2022</td>
<td><strong>NOMINATION PERIOD OPENS</strong> First day candidates may pick up nomination documents at the office of the Registrar of Voters.</td>
</tr>
<tr>
<td>E- 99</td>
<td>Monday, August 1, 2022</td>
<td><strong>F.P.P.C. SEMI-ANNUAL STATEMENT DUE</strong> Deadline for semi-annual financial disclosure report Form 460 covering the reporting period noted below or the day after the closing date of the last statement filed. Reporting Period: January 1, 2022 to June 30, 2022</td>
</tr>
<tr>
<td>E- 98</td>
<td>Tuesday, August 2, 2022</td>
<td><strong>RUN-OFF CANDIDATES ONLY: REQUEST FOR DIFFERENT BALLOT DESIGNATION</strong> Last day for run-off candidates to request, in writing, a different ballot designation than that used at the Statement Direct Primary election. For State offices, requests should be made to both the Secretary of State, and the Registrar of Voters offices.</td>
</tr>
<tr>
<td>E- 90 to 0</td>
<td>Wednesday, August 10, 2022 to Tuesday, November 8, 2022</td>
<td><strong>CONTRIBUTION / INDEPENDENT EXPENDITURES</strong> Sums of $1,000 or more to/from a single source must be reported within 24-hours. The Independent Expenditure report is required only for committees (not candidate controlled) that make independent expenditures totaling $1,000 or more to support or oppose a single ballot measure or a single candidate.</td>
</tr>
<tr>
<td>E- 103 to 88</td>
<td>Thursday, July 28, 2022 to Friday, August 12, 2022</td>
<td><strong>PERIOD FOR MEASURE RESOLUTIONS AND TAX RATE STATEMENTS TO BE SUBMITTED TO THE ROV</strong> Between these dates is the period for jurisdictions to submit a resolution calling for a measure special election, and if applicable, tax rate statements. The ROV encourages jurisdictions to provide a resolution as early as possible.</td>
</tr>
<tr>
<td>E- 88</td>
<td>Friday, August 12, 2022</td>
<td><strong>NOMINATION PERIOD CLOSES</strong> Deadline to file (in the Office of the Registrar of Voters only) all required nomination documents.</td>
</tr>
<tr>
<td>E- 87 to 83</td>
<td>Saturday, August 13, 2022 to Wednesday, August 17, 2022</td>
<td><strong>NOMINATION EXTENSION PERIOD</strong> If the incumbent fails to file a Declaration of Candidacy by deadline for their office, there will be a 5-calendar-day extension during which any candidate, other than the incumbent, may file for said office.</td>
</tr>
<tr>
<td>E- 84</td>
<td>Tuesday, August 16, 2022</td>
<td><strong>DUE DATE FOR PRIMARY ARGUMENTS</strong> 5:00 p.m. is the deadline set by the Registrar of Voters for submitting primary arguments in favor of and against a measure. Arguments for City measures must be filed with the City Clerk's office. Contact the City Clerk's office for filing deadlines.</td>
</tr>
<tr>
<td>E- 83</td>
<td>Wednesday, August 17, 2022</td>
<td><strong>LAST DAY TO AMEND OR WITHDRAW A MEASURE</strong> Deadline for jurisdictions to amend or withdraw a measure from the ballot. The measure must be amended or withdrawn by resolution.</td>
</tr>
</tbody>
</table>
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<th># of Days Prior to or Following Election</th>
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<th>ACTIVITIES / DOCUMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>E- 83 to 74</td>
<td>Wednesday, August 17, 2022 to Friday, August 26, 2022</td>
<td>1.4 <strong>EXAMINATION PERIOD FOR ALL PRIMARY ARGUMENTS FILED</strong> The elections official shall make the arguments available for public examination during business hours for a period of 10-calendar days immediately following the filing deadline for submission of those documents.</td>
</tr>
<tr>
<td>E- 82</td>
<td>Thursday, August 18, 2022</td>
<td><strong>RANDOMIZED ALPHABET DRAWING</strong> This day the Secretary of State (SOS) and the local elections official will conduct a drawing of letters of the alphabet to determine the order in which candidates appear on the ballot. For local offices, candidates should refer to the SOS’s drawing, and for State or Legislative offices, candidates should refer to the ROV’s drawing for order of their name to appear on the ballot.</td>
</tr>
<tr>
<td>E- 77</td>
<td>Tuesday, August 23, 2022</td>
<td>1.4 <strong>DUE DATE FOR REBUTTAL ARGUMENTS AND IMPARTIAL ANALYSES</strong> Deadline set by the Registrar of Voters for submitting rebuttal arguments to primary arguments in favor of and against a measure and impartial analyses.</td>
</tr>
<tr>
<td>E- 76 to 67</td>
<td>Wednesday, August 24, 2022 to Friday, September 2, 2022</td>
<td>1.4 <strong>EXAMINATION PERIOD FOR ALL REBUTTALS AND IMPARTIAL ANALYSES FILED</strong> The elections official shall make the rebuttal arguments and Impartial Analyses available for public examination during business hours for a period of 10-calendar days immediately following the filing deadline for submission of those documents.</td>
</tr>
<tr>
<td>E- 67</td>
<td>Friday, September 2, 2022</td>
<td>1.4 <strong>FINAL PRINTING DEADLINE</strong> Any petition for writ of mandate, including any appeals, should be resolved by this date so the Registrar of Voters can meet necessary printing deadlines.</td>
</tr>
<tr>
<td>E- 57 to 14</td>
<td>Monday, September 12, 2022 to Tuesday, October 25, 2022</td>
<td><strong>WRITE-IN CANDIDACY PERIOD</strong> Between these dates is the period for candidates to obtain and file write-in nomination documents in the Office of the Registrar of Voters.</td>
</tr>
<tr>
<td>E- 40</td>
<td>Thursday, September 29, 2022</td>
<td>1.4 <strong>F.P.P.C. 4&quot; PRE-ELECTION STATEMENT DUE</strong> Deadline for financial disclosure report Form 460 covering the reporting period noted below or the day after the closing date of the last statement filed. Reporting Period: July 1, 2022 to September 24, 2022</td>
</tr>
<tr>
<td>E- 29</td>
<td>Monday, October 10, 2022</td>
<td><strong>FIRST DAY TO BEGIN MAILING VOTE-BY-MAIL BALLOTS</strong> First day to begin mailing vote-by-mail ballots.</td>
</tr>
<tr>
<td>E- 28 to 1</td>
<td>Tuesday, October 11, 2022 to Monday, November 7, 2022</td>
<td>1.4 <strong>EARLY VOTING PERIOD AT THE ROV OFFICE</strong> Early voting is available at the Registrar of Voters office for individuals wishing to drop off ballot or vote in person during normal business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m., beginning 29 days prior the election.</td>
</tr>
<tr>
<td>E- 15</td>
<td>Monday, October 24, 2022</td>
<td><strong>LAST DAY TO REGISTER TO VOTE FOR THIS ELECTION</strong> Deadline to register to be eligible to vote in this election.</td>
</tr>
<tr>
<td>E- 12</td>
<td>Thursday, October 27, 2022</td>
<td>1.4 <strong>F.P.P.C. 2&quot; PRE-ELECTION STATEMENT DUE</strong> Deadline for financial disclosure report Form 460 covering the reporting period noted below or the day after the closing date of the last statement filed. Reporting Period: September 25, 2022 to October 22, 2022</td>
</tr>
</tbody>
</table>
# AMENDED ABBREVIATED
## GUBERNATORIAL GENERAL ELECTION CALENDAR
### November 8, 2022
#### County of Santa Clara Registrar of Voters

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</table>
| E- 10 to 0                              | Saturday, October 29, 2022 to Tuesday, November 8, 2022 | VOTE CENTERS OPEN 10 DAYS BEFORE ELECTION DAY  
Vote Centers are open to all registered voters in Santa Clara County. Vote Centers are open to all registered voters in jurisdictions holding special elections. Any voter can go to any Vote Center location throughout the County. Hours may vary by location and locations may vary with each election – please see listing on our website at sccvote.com or click link below.  
Official Ballot Drop Box and Vote Center Sites Information  
(The ROV website will be updated for each election.) |
| E- 7                                    | Tuesday, November 1, 2022       | LAST DAY TO REQUEST VOTE-BY-MAIL BALLOT TO BE MAILED  
Deadline at 5:00 p.m. to submit a request for a Vote-by-Mail ballot to be mailed to voter. |
| E 0                                     | Tuesday, November 8, 2022       | ELECTION DAY  
All Vote Centers and ROV office are open from 7:00 a.m. to 8:00 p.m. for dropping off ballot or voting in person. Ballots must be postmarked by this date to ensure eligibility of counted votes. |
| E+ 22                                   | Wednesday, November 30, 2022    | ELECTIONS OFFICIAL TO NOTIFY VOTER OF VERIFICATION OF SIGNATURE  
In the case of a voter whose signature does not match or is missing, the elections official is required to notify the voter at least 8 days before the certification of the election of an opportunity to update the voter's signature. |
| E+ 28                                   | Tuesday, December 6, 2022      | SIGNATURE VERIFICATION DATE  
Last day to turn in unsigned ballots or signature verification statements. |
| E+ 30                                   | Thursday, December 8, 2022     | OFFICIAL CANVASS OF VOTE  
Registrar of Voters to certify election results. |
| E+ 84                                   | Tuesday, January 31, 2023      | 2 F.P.P.C. SEMI-ANNUAL STATEMENT DUE  
Deadline for semi-annual financial disclosure report Form 460 covering the reporting period noted below or the day after the closing date of the last statement filed.  
Reporting Period: July 1, 2022 to December 31, 2022 |
Schedule of Meetings
Published April 28, 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.

Meetings are held in-person and by virtual teleconference.

THURSDAY, April 28
Historic Resources Board Meeting, 8:30 a.m.

THURSDAY, April 28
Human Relations Commission, 6:00 p.m.

MONDAY, May 2
Sp. City Council Meeting, 5:00 p.m.

TUESDAY, May 3
Sp. Finance Committee Meeting, 5:30 p.m.

WEDNESDAY, May 4
Sp. Utilities Advisory Committee Meeting, 6:00 p.m.

THURSDAY, May 5
Architectural Review Board Meeting, 8:30 a.m.

MONDAY, May 9
Sp. City Council Meeting, 5:00 p.m.

TUESDAY, May 10
Sp. Finance Committee Meeting, 9:00 a.m.

TUESDAY, May 10
Sp. Policy and Services Committee Meeting, 7:00 p.m.

TUESDAY, May 11
Sp. Finance Committee Meeting, 9:00 a.m.

THURSDAY, May 12
Historic Resources Board Meeting, 8:30 a.m.

THURSDAY, May 12
Human Relations Commission, 6:00 p.m.

MONDAY, May 16
Sp. City Council Meeting, 5:00 p.m.

TUESDAY, May 17
Sp. Finance Committee Meeting, 5:30 p.m.
This At-Places Memorandum summarizes three events that occurred after publication of the staff report: (1) A focus group meeting with businesses and property owners regarding parklets; (2) an online business survey; and, (3) comments from the Architectural Review Board. This memo provides a summary of additional feedback received after publication of the staff report and prior to the May 9th City Council Meeting.

Focus Group

On Wednesday, April 27th, staff met with nine (9) members of the Palo Alto business community to discuss the proposed permanent parklet program standards. The group included restaurant owners and one property owner in the downtown area and one restaurant/business owner from California Avenue.

Staff reviewed key areas of change being proposed, including design and operational standards as well as potential program fees. The key topics and corresponding feedback are summarized below:

*Design Standard Feedback:*

- **Landscaping and Planters.** Several individuals voiced concerns with requiring landscaping and/or planters as part of the parklet standards due to required upkeep. While most people voiced an appreciation for plantings and vegetation adding positively to the urban environment, there were concerns that the standard would not necessarily be achieved to the expected aesthetic quality in practice. “Not everyone has a green thumb”, was one remark we got on this topic. One individual also voiced concerns over planters collecting trash and debris, which would likely be addressed through operational standards for cleanliness.
- **Enclosure and Sidewalls.** Several business owners felt that not allowing side walls along the street facing edges of the parklet would be a serious problem with patrons. Several businesses have erected tents, tent-like structures, or three-sided enclosures during the temporary program period and this standard would stray from those existing conditions. The need for side walls as expressed by focus group attendees is motivated by the need for protection from sun, wind, and other elements. As voiced by one business owner, “Not allowing side walls feels like a program killer.” Further information on side walls and safety requirements can be found in the primary staff report.

**Power Supply Feedback:**
Several attendees expressed serious concern over the proposed requirement for electric only connections for parklets including lighting and heaters. Most individuals that spoke to this concern felt that businesses that have space to store propane in compliance with fire code should be permitted to do so. The primary reason for the concern over electric connectivity is the potential for electrical system retrofitting if the business is already close to or at the capacity for electrical output for their space. Upgrading electrical service to their business to power heaters and parklet lighting may be cost prohibitive and require too much time.

**Program Fee & Space Charge Feedback:**
Initial feedback from focus group attendees on the topic of a parking space charge was divided. A few individuals felt strongly that there should be no additional space charge in addition to permitting fees as they felt the tax revenues generated by their operations sufficiently compensate the public for the use of the space. However, a few other attendees expressed that the idea that there would be no fee or cost to businesses for utilizing public space for a private business was ‘ridiculous’ and felt that requesting a space charge was reasonable and expected.

In addition to focused feedback, there were a few general comments for staff and decisionmakers to consider moving forward in the drafting process. A few attendees mentioned that it would be helpful to have the standards provided through example plans for businesses to utilize for their respective applications. The business owner in the group suggested having design guidelines that were flexible enough for a future tenant to take over the parklet without too much trouble or need for retrofitting.

**Survey**
In addition to a focus group, staff sent an online survey out to businesses and property owners to answer specific questions and provide feedback on the parklet program. The following provides a review of the results from 24 total survey responses:

**Question 1: Do you currently have a parklet?**
Out of 24 total responses, 16 individuals have a parklet (67%) and 8 do not (33%).
**Question 2:** If you have a parklet, how many parking spaces are being utilized for the parklet?

Of the 16 individuals who indicated that they currently have a parklet, 17% are utilizing one (1) space, 44% are utilizing two (2) spaces, 11% are utilizing three (3) spaces, and 28% are utilizing more than three (3) spaces.

**Question 3:** We are considering an annual charge to compensate for the private use of public space for revenue generating activities. *If you had to pay a monthly charge for use of the public right of way, which of the following fee ranges would you be willing to pay to continue to have a parklet (please check all that apply):*
Question 4: From your perspective, what has been the most successful outcome of having parklets in Palo Alto?

A majority of the respondents, 20, indicated a positive outcome from having the parklets including continued business throughout the pandemic, increasing foot traffic and beautifying Palo Alto, and allowing for an opportunity for guests to enjoy the fantastic climate and weather of Palo Alto. Three respondents were less favorable: two respondents expressed not liking the parklets and one respondent liked the parklets during the height of the pandemic but feel they are no longer necessary.

Question 5: What would you change about your parklet?

The majority of responses (10) indicated that they would make minor changes with the implementation of a permanent program such as investing in a roof structure, improving heating, adding signage, adding more seating, or upgrading materials and installing better plants. The remaining responses were split between individuals expressing they like their parklet as is and two individuals who expressed the desire to have all parklets removed.

Question 6: Do you have any other general or specific feedback for the permanent parklet program?

We received a wide range of feedback from respondents. Feedback received is summarized below in key categories:

- **Guidelines:**
  - Keep guidelines streamlined and not cumbersome
  - Ask for clear standards including neutral colors, quality design materials.
  - Propane heaters should be allowed as well as electric heaters

![Bar chart showing fee ranges for parklets]

**Question 3: Which of the following monthly fee ranges would you be willing to pay to continue to have a parklet?**

- $100-$250: 14 responses
- $250-$500: 4 responses
- $500-$1000: 1 response
- $1000-$1500: 1 response
• Provide Pre-approved parklet plans to streamline process for businesses
  • Parklets should have a uniform look and aesthetic
  • Wind, sun, and rain protection is imperative

• Fees:
  • If fees need to be imposed, keep them low
  • Parklets should be free

• Operations:
  • Keep parklets, clean, safe, and convenient for the community
  • More maintenance and cleaning of areas around parklet
  • Look at program management and the effect on different areas of the city (i.e. how many parklets per block)

• Miscellaneous:
  • End the parklet program
  • Reopen Ramona
  • Drive lanes should be minimized and parklets expanded.
  • No permanent parklets

As indicated by the variety of comments, business owners should and will continue to be engaged during the update process to capture valuable feedback.

Architectural Review Board (ARB) Feedback
The ARB had a robust discussion of the proposed standards on May 5, 2022. The motion, supported unanimously, was to forward their feedback (described below) to the City Council for its consideration and request the City Council extend the temporary program to allow more time for an ARB subcommittee to discuss and deliberate on the standards.

The ARB took a series of informal “straw polls” to gauge members opinions on aspects of the standards. These straw polls are summarized below. Minutes from this meeting are not yet available.

1. Color – 4 of 5 members support removing from the standards references to limiting colors and requiring neutral and/or earth tones. Most members felt the limitation on color as proposed was overly restrictive. One member, however, did prefer to have flexibility for color of non-fixed items (furnishings, chairs, pillows, etc.) while limiting color for fixed elements (platform, enclosure, etc).
2. Lights – 5 of 5 members supported no restriction on ambient lighting, except prohibiting flood lighting or other such harsh lighting. The ARB wanted to allow for creative and attractive lighting with fewer limitations. Staff can research how best to phrase this minimizing any lighting that might be detrimental to motorists. Initially staff do have concerns around how omnidirectional lighting may impact motorists.

3. 4’ Setbacks (at the ends of parklets) Wheel Stops, Delineators – ARB members recognized the importance of providing these safety features, yet also wanted to study more aesthetically please alternatives to meet the intent of these devices. This includes exploring the option for bike parking in the 4’ setback or other safety devices.

4. 36” Height of Enclosure and Periodic Barrier (+/- a few inches) - The ARB noted that seeing into and out of the parklet is key to their success for patrons as well as for pedestrians, motorists, and others. They felt the height of the enclosure should be a maximum of 36” (as opposed to the proposed 42”), with some allowance for additional height to allow flexibility. They did not want the enclosure and/or periodic barrier to be 42” tall. The height of 36” is common in other jurisdictions.

5. Side Covering/Sidewalls – The ARB acknowledged this topic is critical. Providing some protection from wind and other elements is important for parklets. ARB members generally supported some type of sidewall/covering. The ARB wanted more time to discuss appropriate materials for sidewalls that are good quality and maintain transparency. 3 of 5 members did not support opaque sidewalls or coverings. Yet the members agreed they need more time to discuss appropriate materials and other characteristics of sidewalls and coverings.

6. Quality of Materials – All members supported prohibiting the use of vinyl, soft plastics, or tarps for parklet coverings or as any part of the enclosure.

7. Fabric Roofs – ARB members supported allowing fabric roofs or coverings over parklets. In such cases, ARB agreed heaters would not be allowed under fabric roofs. If Council concurs, staff recommend requiring flame retardant and resistant materials to limit danger of ignition. Even if heaters are prohibited, parklet permit holders may violate the standards and place portable heaters under fabric coverings.

8. Aluminum – All ARB members supported allowing the use of aluminum. They noted this material can be attractive, durable, and low cost.

9. Heaters – ARB members acknowledged allowing heaters is critical to the program. They were not decided on whether all electric should be required, or if propane heaters are
also permissible. They wanted more time for a subcommittee to discuss this. One general idea, that received some verbal support, was to allow propane heaters in accordance with any applicable rules and codes. Where a code could not be met, the propane heater would not be allowed.

10. Not Require Design Professional – The supported rephrasing the standards regarding wind load with requiring compliance with the applicable code for wind load and verifying that, but not specifically requiring an engineer or other specific design professional to do so. The ARB pointed out that prefabricated structures may already meet the standards and not require a design professional to verify compliance. Staff remain concerned about ensuring that the parklets are sturdy and will not pose a threat to patrons, motorist, or others.

Vegetation – ARB members spoke in support of requiring vegetation as part of the parklets, as proposed. This topic was not included in a straw poll, either because there were a number of topics and the ARB needed to get on to other items, or because the ARB members generally spoke in favor of the current standard. In contrast, the items included in the straw poll differed from the proposed standards. If the Council does extend the temporary program, this can be further explored.

Finally, the ARB members touched on other topics as well, and likely more discussion will develop if a subcommittee is created to work with staff on the standards.