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

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

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.

REVISED PUBLIC COMMENTS

Public Comments will be accepted both in person and via Zoom for up to three minutes or an amount of time determined by the Chair. 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.

PowerPoints, videos, or other media to be presented during public comment are accepted only by email to city.clerk@cityofpaloalto.org at least 24 hours prior to the meeting. Once received, the City Clerk will have them shared at public comment for the specified item. To uphold strong cybersecurity management practices, USB’s or other physical electronic storage devices are not accepted.
CALL TO ORDER

AGENDA CHANGES, ADDITIONS AND DELETIONS

PUBLIC COMMENT (5:00 - 5:20 PM)
Members of the public may speak to any item NOT on the agenda. Council reserves the right to limit the duration of Oral Communications period to 30 minutes.

CONSENT CALENDAR (5:20 - 5:25 PM)
Items will be voted on in one motion unless removed from the calendar by three Council Members.

1. Approve Minutes from the November 7 and November 14, 2022 City Council Meetings
2. SECOND READING: Adopt an Interim Ordinance to Continue the Pilot Parklet Program and Other On-Street Uses During Transition Period (FIRST READING: October 24, 2022 PASSED 7-0)
3. Adoption of an Ordinance extending the Term of Ordinance No. 5517 by an Additional 18 Months to Expire on June 16, 2024. Ordinance 5517 Amends Title 18 (Zoning) of the Palo Alto Municipal Code to Update Definitions, Broaden Permitted Uses and Provide Limits on Certain Uses through Updates to the Conditional Use Permit Thresholds. Environmental Review: CEQA Exemption 15061(b)(3)
4. Approve an Amendment to the Legal Service Agreement with Colantuono, Highsmith & Whatley, PC (Contract S17167696) to Increase the Contract Amount by an Additional $120,000 for a new Not-to-Exceed Amount of $575,000 and Extend the Term to October 1, 2027
5. Policy And Services Recommendation Regarding New Council Member Orientation & Onboarding Program
7. Approval of a Purchase Order With National Auto Fleet Group in an Amount Not to Exceed $377,826 for the Purchase of a 2023 Chevrolet G4500 Type III Ambulance, Utilizing a Cooperative Purchase Agreement
8. Approval of a Purchase Order with Golden State Fire Apparatus in an Amount Not to Exceed $1,168,875 for the Purchase of a 2022 Pierce
Enforcer Heavy Duty Rescue, Utilizing a Cooperative Purchase Agreement

CITY MANAGER COMMENTS (5:25 - 5:45 PM)

ACTION ITEMS

9. Review of, and Direction to Staff to Submit, the Draft 2023-31 Housing Element, as Modified, to the State Department of Housing and Community Development for its 90-Day Review. The Planning and Transportation Commission Will Participate in a Joint Meeting With the City Council to Discuss the Draft Housing Element. Environmental Review: This Action is not a Project in Accordance With the CEQA Guidelines. (5:45 - 8:30 PM)

10. Approval of Amendments to the Employment Agreements between the City of Palo Alto and Council Appointed Officers, specifically the City Manager, City Attorney and City Clerk (8:30 - 9:00 PM)

11. Potential Nomination of a Council Member to Serve on the Board of Directors of the Santa Clara Valley Transportation Authority (VTA) for a Two-Year Term Beginning January 2023 (9:00 - 9:30 PM)

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

ADJOURNMENT

OTHER INFORMATION
Standing Committee Meetings

Finance Committee Meeting November 29, 2022

Schedule of Meetings
PUBLIC COMMENT INSTRUCTIONS

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

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

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

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

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

CLICK HERE TO JOIN  Meeting ID: 362 027 238  Phone:1(669)900-6833
Title: Approve Minutes from the November 7 and November 14, 2022 City Council Meetings

From: Lesley Milton, City Clerk

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

ATTACHMENTS:

- Attachment1.a: Attachment A: 20221024amCCsm  (PDF)
- Attachment1.b: Attachment B: 20221114amCCsm  (PDF)
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 In Person: Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka

Present Remotely: None

Absent: None

Special Orders of the Day

1. Appreciation for Joe Simitian, Santa Clara County Supervisor, for Advocacy on Behalf of the Palo Alto Community for affordable housing and support for mental health, and services to unhoused Palo Altans (including the $4 Million Challenge Grant in Support of Palo Alto Homekey)

   **Action: No action was taken**

2. The Great California Shakeout

   **Action: No action was taken**

Study Session

3. Crime Mitigation Strategies through the Use of Automated License Plate Recognition (ALPR) Technology

   **Action: No action was taken**

Agenda Changes, Additions and Deletions

None.

Public Comment
DRAFT ACTION MINUTES

Consent Calendar

Council Member Tanaka registered a no vote on Agenda Item Number 6.

MOTION: Council Member Cormack moved, seconded by Mayor Burt to approve Agenda Item Numbers 4-8.

4. Approval of Contract Amendment No. Two with GovernmentJobs.com, Inc. dba Neogov for Recruiting and Onboarding Services, to Extend the Term through June 30, 2025, Add Services, and Increase Compensation by an Amount Not-To-Exceed $249,883 for a New Contract Total Not-To-Exceed Amount of $411,323

5. Adoption of Resolution 10080 Authorizing a City Application for the State Permanent Local Housing Allocation (PLHA) Funds and Authorization of City Manager or Designee to Manage the Allocation

6. Approval of Fiscal Year 2022 Reappropriation Requests to be Carried Forward Into Fiscal Year 2023 and Budget Amendments in Various Funds

7. Approval of a Professional Services Agreement Contract Number C23185658 With BKF Engineers for the Amount of $900,000 Over a 3-year Term for On-Call Surveying and Design Support Services

8. Approve the Parks and Recreation Commission Recommendation for a New Skate Park; Authorize the Friends of Palo Alto Parks to begin Fundraising; and Direct Staff to Support Outreach

MOTION PASSED Items 4, 5, 7, 8: 7-0

MOTION PASSED Item 6: 6-1 Tanaka no

City Manager Comments

Ed Shikada, City Manager
DRAFT ACTION MINUTES

Action Items

9. PUBLIC HEARING: Staff Recommend the City Council Review the North Ventura Coordinated Area Plan (NVCAP) Refined Preferred Alternative, Take Public Comment, and Endorse the Refined Preferred Alternative Plan.

MOTION: Council Member Filseth moved, seconded by Mayor Burt to Continue the item to November 14th

MOTION PASSED: 6-1, Cormack no

10. Review and Provide Direction to Staff on the Draft Permanent Parklet Program Standards and Policies; Adopt an Interim Ordinance and Resolution to Continue the Pilot Parklet Program and Other On-Street Uses During Transition Period; and Direct Staff to Return with Legislation Implementing a Permanent Parklet Program

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

Adopt Interim Ordinance and draft resolution currently set to expire on December 31, 2022, to extend the temporary parklet program to June 30, 2023, and allow the other on-street and parking lot dining and retail programs to December 31, 2023. Direct staff to continue allowing dining at street grade until June 30, 2023

a) Direct staff to implement Option 2 of the Neighbor consent letter through administrative regulations to begin on January 1, 2023.

SUBSTITUTE MOTION: Council Member Stone moved, seconded by Mayor Burt to substitute as follows as sub-bullets to the above motion:

a) that parklets be allowed without coverings or obstructions above 38” for a fee, to be determined, in front of neighboring businesses

b) Allow for a first right of refusal for renting a parklet space, with the first right to go to the business immediately behind the parklet space

SUBSTITUTE MOTION FAILED: 2-5, Tanaka, Kou, Cormack, Filseth, DuBois no
MOTION SPLIT FOR PURPOSE OF VOTING

MOTION: Council Member Cormack moved, seconded by Council Member Filseth to adopt Interim Ordinance 5572 and Resolution 10081 currently set to expire on December 31, 2022, to extend the temporary parklet program to June 30, 2023, and allow the other on-street and parking lot dining and retail programs to December 31, 2023. Direct staff to continue allowing dining at street grade until June 30, 2023.

MOTION PASSED: 7-0

MOTION: Council Member Cormack moved, seconded by Council Member Filseth to add as a sub-bullet to the above motion:

a) Direct staff to implement Option 2 of the Neighbor consent letter through administrative regulations to begin on January 1, 2023.

MOTION PASSED: 4-3, Burt, Tanaka, Stone no

MOTION: Council Member Dubois moved, seconded by Vice Mayor Kou to:

1. Direct staff to implement proposed permanent standards upon adopting of a permanent parklet ordinance

2. As to the permanent parklet program, direct staff to:
   a. Return to Council establishing an application fee, cleaning fee and security deposit based on cost recovery.
   b. Return to Council establishing and annual license fees as soon as possible, set to 70% of ground retail rate for "downtown" and "not downtown" in Table 2
   c. Require Consent letter from both neighboring tenant and owner
   d. Limit Amplified sound to come only from buildings

AMENDMENT: Council Member Tanaka, seconded by Mayor Burt to direct staff to return with a recommendation for continuing propane use pending a phase out based on practical feasibility for restaurants

AMENDMENT PASSED: 4-3, Cormack, Kou, DuBois no
MOTION INCORPORATING AMENDMENT: Council Member Dubois moved, seconded by Vice Mayor Kou to:

1. Direct staff to implement proposed permanent standards upon adopting of a permanent parklet ordinance
   
   a. Direct staff to return with a recommendation for continuing propane use pending a phase out based on practical feasibility for restaurants

2. As to the permanent parklet program, direct staff to:
   
   a. Return to Council establishing an application fee, cleaning fee and security deposit based on cost recovery.
   
   b. Return to Council establishing an annual license fees as soon as possible.
   
   c. Require Consent letter from both neighboring tenant and owner. Upon revocation, owner has a minimum of six months before they are required to remove the parklet.
   
   d. Limit Amplified sound to come only from buildings.

MOTION PASSED: 6-1 Tanaka no

Council Member Questions, Comments and Announcements

None

Adjournment: The meeting was adjourned at 12:31 A.M.

ATTEST: APPROVED:

____________________   ____________________
City Clerk                                              Mayor

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

Special Meeting  
November 14, 2022  

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 In Person: Burt, Cormack, DuBois, Filseth, Kou, Stone, Tanaka  

Present Remotely: None  

Absent: None  

Closed Session  

1. CONFERENCE WITH CITY ATTORNEY  
   Subject: Written Liability Claim Against the City of Palo Alto By Steven and Catherine Popell (Claim No. C23-0007)  
   Authority: Government Code Section 54956.9(e)(3)  

2. CONFERENCE WITH LABOR NEGOTIATORS  
   City Designated Representatives: City Manager and his Designees Pursuant to Merit System Rules and Regulations (Ed Shikada, Kiely Nose, Sandra Blanch, Nicholas Raisch, Molly Stump, and Terence Howzell)  
   Employee Organization: Service Employees International Union, (SEIU) Local 521, Utilities Management and Professional Association of Palo Alto (UMPAPA), Palo Alto Peace Officer's Association (PAPOA), Palo Alto Police Management Association (PMA), International Association of Fire Fighters (IAFF) local 1319, Palo Alto Fire Chiefs Association (FCA),;  
   Authority: Government Code Section 54957.6 (a)  

MOTION: Council Member Cormack moved, seconded by Council Member Burt to go into Closed Session.  

MOTION PASSED: 7-0  

Council went into Closed Session at 5:00 P.M.  

Council returned from Closed Session at 7:05 P.M.  

Mayor Burt announced there was no reportable action.
Study Session

3. Bi-Annual Discussion with the Independent Police Auditor

   **ACTION:** None

Agenda Changes, Additions and Deletions

Public Comment

Consent Calendar

   **MOTION:** Council Member Cormack moved, seconded by mayor Burt to approve Agenda Item Numbers 4-7.

4. Approval of Contract Amendment Number 3 to Contract Number C16166822 with ARC Document Solutions for Copiers/Printers to Extend the Term of the Contract for Three Additional Years and to Decrease the Annual Amount by $102,068 to $306,000 Per Year and a Total Contract Not to Exceed amount of $2,835,340

5. Approval of a Construction Contract with Anderson Pacific Engineering Construction in the Amount of $6,070,000; Authorization for the City Manager or Their Designee to Negotiate and Execute Change Orders up to a Not-to-Exceed Amount of $607,000; Approval of Amendment #1 to Contract Number C21176592C with Carollo Engineers to Add Services, to Increase Compensation by $604,246 for a New Maximum Compensation Not-to-Exceed $604,247 for the Wastewater Treatment Fund for the 12kV Electrical Power Distribution Loop Rehabilitation Bid Package 1 Project funded by the Plant Repair, Retrofit, and Equipment Replacement Project (WQ-19002) at the Regional Water Quality Control Plant

6. **SECOND READING:** Adoption of Nine Ordinances That Repeal and Adopt Various Sections of the Palo Alto Municipal Code (PAMC) Related to the 2022 CA Building Codes (CA Code of Regulations Title 24) Update and Proposed Local Amendments; including:
   (1) **Ordinance 5563** Chapter 15.04 Incorporating the 2022 CA Fire Code With Local Amendments;
   (2) **Ordinance 5564** Chapter Chapter 16.04 Incorporating the 2022 CA Building Code With Local Amendments;
   (3) **Ordinance 5565** Chapter Chapter 16.05 Incorporating the 2022 CA Mechanical Code With Local Amendments;
   (4) **Ordinance 5566** Chapter Chapter 16.06 Incorporating the 2022 CA Residential Code With Local Amendments and Amending Chapter
16.52 to Align Federal, State, and Local Flood Hazard Regulations;
(5) **Ordinance 5567** Chapter Chapter 16.08 Incorporating the 2022 CA Plumbing Code With Local Amendments;
(6) **Ordinance 5568** Chapter Chapter 16.16 Incorporating the 2022 CA Electrical Code With Local Amendments;
(7) **Ordinance 5569** Chapter Chapter 16.18 Incorporating the 2021 International Swimming Pool and Spa Code With Local Amendments;
(8) **Ordinance 5570** Chapter Chapter 16.14 Incorporating the 2022 CA Green Building Standards Code with Local Amendments;
(9) **Ordinance 5571** Chapter Chapter 16.17 Incorporating the 2022 CA Energy Code Without Local Amendments.
Environmental Assessment: Project is Exempt Under CA Environmental Quality Act CEQA Guidelines Sections 15061(b)(3) and 15308
(FIRST READING: October 17, 2022 PASSED: 7-0).

7. Adoption of **Resolution 10084** for the Santa Clara County Historical Heritage Grant Program Authorizing the Application and Receipt of Grant Funds by the City of Palo Alto for the Roth Building (300 Homer Ave) Windows Rehabilitation & Restoration

**MOTION PASSED: 7-0**

City Manager Comments

Action Items

8. PUBLIC HEARING: Staff Recommend the City Council Review the North Ventura Coordinated Area Plan (NVCAP) Refined Preferred Alternative and Endorse the Refined Preferred Alternative Plan.

**ORIGINAL MOTION:** Council Member DuBois moved, seconded by Mayor Burt to endorse the refined preferred alternative plan with the following changes:

A. Allow 45 feet height transition on El Camino

B. 55 feet for 100% affordable site at 340 Portage without retail

C. Define strict TDM and evaluate a city initiated RPP district to protect residential parking

D. Evaluate removing the woonerf to decrease congestion as an option in the EIR
DRAFT ACTION MINUTES

E. No parking maximums

F. Raise the height limit along Park Blvd to 55 feet

**SUBSTITUTE MOTION:** Mayor Burt moved, seconded by Council Member Stone to add:

G. Request Staff to evaluate zoning changes that would increase FAR for housing on commercial sites along Park Blvd and Page Mill Rd.

**MOTION PASSED:** 5-2, Dubois, Kou no

**SUBSTITUTE MOTION:** Council Member Stone moved, seconded by Council Member Cormack to amend item B to 65 feet for parking.

**MOTION PASSED:** 5-2, Filseth, DuBois no

**MOTION SPLIT FOR THE PURPOSE OF VOTING:** Council Member DuBois moved, seconded by Mayor Burt to endorse the refined preferred alternative plan with the following changes:

A. Allow 45 feet height transition on El Camino

**MOTION PASSED:** 5-2 Filseth, Kou No

**MOTION SPLIT FOR THE PURPOSE OF VOTING:** Council Member DuBois moved, seconded by Mayor Burt to endorse the refined preferred alternative plan with the following changes:

B. 65 feet for 100% affordable site at 340 Portage without retail, (to include 5 stories of residential, with one level for parking)

E. No parking maximums

**MOTION PASSED:** 5-2, Tanaka Filseth no

**BALANCE OF THE MOTION:** Council Member DuBois moved, seconded by Mayor Burt to endorse the refined preferred alternative plan with the following changes:

A. Allow 45 feet height transition on El Camino

B. 65 feet for 100% affordable site at 340 Portage without retail, (to include 5 stories of residential, with one level for parking)

C. Define strict TDM and evaluate a city initiated RPP district to protect residential parking
D. Evaluate removing the woonerf to decrease congestion as an option in the EIR

E. No parking maximums

F. Raise the height limit along Park Blvd to 55 feet, for residential or residential mix use without increasing commercial FAR

G. Request Staff to evaluate zoning changes that would increase FAR for housing on commercial sites along Park Blvd and Page Mill Rd

H. Staff will review and return with recommendation about designation of 340 Portage Rd as a historical resource

**MOTION PASSED:** 6-1 Cormack No

**FINAL APPROVED MOTION**

**MOTION:** Council Member DuBois moved, seconded by Mayor Burt to endorse the refined preferred alternative plan with the following changes:

A. Allow 45 feet height transition on El Camino

B. 65 feet for 100% affordable site at 340 Portage without retail, (to include 5 stories of residential, with one level for parking)

C. Define strict TDM and evaluate a city initiated RPP district to protect residential parking

D. Evaluate removing the woonerf to decrease congestion as an option in the EIR

E. No parking maximums

F. Raise the height limit along Park Blvd to 55 feet, for residential or residential mix use without increasing commercial FAR

G. Request Staff to evaluate zoning changes that would increase FAR for housing on commercial sites along Park Blvd and Page Mill Rd

H. Staff will review and return with recommendation about designation of 340 Portage Rd as a historical resource

9. City Council discussion and direction regarding wage requirements for the contract for next Janitorial services
A. Review and Provide Direction on Wage and Benefits Requirements for Inclusion in a New Janitorial Services Request for Proposal (RFP)

B. Responsible Contracting Standards Colleague's Memo (Stone & Burt)

**ACTION: Continued to a future meeting**

Council Member Questions, Comments and Announcements

Adjournment: The meeting was adjourned at 10:58 P.M.

ATTEST: 

____________________  

Approved:  

____________________  

City Clerk  

Mayor

NOTE: Action minutes are prepared in accordance with Palo Alto Municipal Code (PAMC) 2.04.160(a) and (b). Summary minutes (sense) are prepared in accordance with PAMC Section 2.04.160(c). Beginning in January 2018, in accordance with Ordinance No. 5423, the City Council found action minutes and the video/audio recordings of Council proceedings to be the official records of both Council and committee proceedings. These recordings are available on the City’s website.
Title: SECOND READING: Adopt an Interim Ordinance to Continue the Pilot Parklet Program and Other On-Street Uses During Transition Period (FIRST READING: October 24, 2022 PASSED 7-0)

From: Lesley Milton, City Clerk

This was heard by the City Council on October 24, 2022 for a first reading and was approved 7-0. No changes were made to the Ordinance; it is now before you for a second reading.

ATTACHMENTS:

- Attachment2.a: Attachment A: Interim Ordinance Temporarily Continuing Expansion of Outdoor Dining, Retail, and Other Activities (PDF)
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).

C. On November 8, 2022, the City Council adopted Ordinance 5533, which amended and restated Ordinance 5526 with a sunset date of June 30, 2022.

D. In May 2022, the City Council adopted Ordinance 5551, which amended and restated Ordinance 5533 to extend its provisions through December 31, 2022.

E. The City Council now desires to amend and restate Ordinance 5551 to extend the parklet provisions of this ordinance until June 30, 2022 in anticipation of a permanent parklet program taking effect by then. The City Council also desires to extend the remainder of this ordinance until December 31, 2023.

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.

B. **Use of Private Parking Lots – Temporary Reduction of Parking Requirements.**

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.


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.

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. The provisions of this Ordinance allowing temporary parklets shall remain in effect until June 30, 2023 unless otherwise modified, repealed or extended by the City Council. The remainder of this Ordinance shall remain in effect until December 31, 2023 unless otherwise modified, repealed or extended by the City Council.

SECTION 15. Uncodified

This Ordinance shall not be codified.
SECTION 16. Supercedes Ordinance 5551.

As of the effective date of this Ordinance, this Ordinance shall supercede Ordinance 5551, 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
Title: Adoption of an Ordinance extending the Term of Ordinance No. 5517 by an Additional 18 Months to Expire on June 16, 2024. Ordinance 5517 Amends Title 18 (Zoning) of the Palo Alto Municipal Code to Update Definitions, Broaden Permitted Uses and Provide Limits on Certain Uses through Updates to the Conditional Use Permit Thresholds. Environmental Review: CEQA Exemption 15061(b)(3)

From: Lesley Milton, City Clerk

On November 7, 2022, the City Council held a public hearing to consider a staff recommendation for permanent adoption of the regulations contained in Ordinance 5517. The Council voted 5-2 (Cormack, Tanaka no) to instead extend Ordinance 5517 for a period of 18 months. An extension ordinance has been prepared as Attachment A for a first reading.

ATTACHMENTS:

- Attachment3.a: Attachment A: Ordinance Temporarily Extending Ord 5517 Amending PAMC Ch 18.04 18.16 18.18 18.30 (PDF)
Ordinance of the Council of the City of Palo Alto Temporarily Extending Ordinance 5517, Amending Palo Alto Municipal Code (PAMC) Title 18 (Zoning), Chapters 18.04 (Definitions), 18.16 (Neighborhood, Community, and Service Commercial (CN, CC and CS) Districts), 18.18 (Downtown Commercial (CD) Districts) and 18.30 (A) and (C) – the Retail and Ground Floor combining districts

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

A. On April 5, 2021 the City Council adopted Ordinance 5517 to temporarily relax certain zoning regulations in the City’s commercial zoning districts to address some of the economic challenges created by the COVID-19 pandemic and to spur economic activity.

B. The City Council directed the Planning and Transportation Commission (PTC) to review certain elements of the temporary ordinance and provide a recommendation to the City Council.

C. On March 30, 2022 the PTC recommended that the term of Ordinance 5517 be extended to allow additional time for consideration of whether the temporary relaxation of zoning regulations should remain indefinitely, and whether such regulations should be otherwise amended.

D. On May 16, 2022, the City Council adopted Ordinance 5549, extending the term of Ordinance 5517 to expire on December 16, 2022.

E. On August 31, 2022, the PTC recommended that the term of Ordinance 5517 be further extended for a temporary period of time.

SECTION 2. The effective date of Ordinance 5517 of the Palo Alto City Council, attached hereto as Exhibit A and incorporated herein, is hereby extended so that the Ordinance shall expire upon the earlier of June 16, 2024 or adoption of replacement legislation by the City Council. Upon expiration of Ordinance 5517, the City Clerk shall direct the City’s codifier to update the Palo Alto Municipal Code as appropriate.

SECTION 3. 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 4. 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 5. The Council finds that the adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guideline sections 15061(b)(3) because it can be seen with certainty that temporary relaxation of minor land use regulations will not have a significant, adverse impact on the environment.

SECTION 6. This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTION:

NOT PARTICIPATING:

ATTEST:

________________________________________  ______________________________________
City Clerk       Mayor

APPROVED AS TO FORM:

________________________________________  ______________________________________
Assistant City Attorney       City Manager

DIRECTOR OF PLANNING & DEVELOPMENT SERVICES
Ordinance No. 5517

Ordinance of the Council of the City of Palo Alto Amending Palo Alto Municipal Code (PAMC) Title 18 (Zoning), Chapters 18.04 (Definitions), 18.16 (Neighborhood, Community, and Service Commercial (CN, CC and CS) Districts), 18.18 (Downtown Commercial (CD) Districts) and 18.30 (A) and (C) – the Retail and Ground Floor Combining Districts

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:


B. As a result of the COVID-19 pandemic and the public health response, restaurant, retail, tourism, and hospitality business has significantly declined and the nation is experiencing a recession.

C. The City Council desires to relax certain zoning regulations in the City’s commercial zoning districts to address some of the economic challenges created by the COVID-19 pandemic and to spur economic activity.

D. The public health, safety, or welfare require that such changes to the City’s zoning regulations be enacted for a temporary period and as expeditiously as possible, without review by the Planning and Transportation Commission pursuant to Palo Alto Municipal Code section 18.80.090.

SECTION 2. Section 18.04.030 (Definitions) of Chapter 18.04 (Definitions) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

18.04.030 Definitions

(a) Throughout this title the following words and phrases shall have the meanings ascribed in this section.

[...]

(45) “Drive-in/drive-through service” means a feature or characteristic of a use involving sales of products or provision of services to occupants in vehicles, including drive-in or drive-up windows and drive-through services such as mechanical automobile washing, pharmacy windows, coffee stands, automatic teller machines, etc.

[...]

EXHIBIT A
(47) “Eating and drinking service” means a use providing preparation and retail sale of food and beverages with a full menu and providing indoor seating area. Eating and drinking service include presence of a full commercial kitchen and commercial dishwasher, including restaurants, fountains, cafes, coffee shops, sandwich shops, ice cream parlors, taverns, cocktail lounges and similar uses. For establishments with incidental sale alcoholic beverages, a minimum of 50% of revenues from an ‘eating and drinking service’ must be derived from the sale of food. Related definitions are provided in subsections (45) (Drive-in/drive-through service), (125)(B) (Intensive retail service) and (136) (Take-out service).

(95) “Medical office” means a use providing consultation, diagnosis, therapeutic, preventive, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans, licensed for such practice by the state of California. Incidental medical and/or dental research within the office is considered part of the office use, where it supports the on-site patient services. Medical office use does not include the storage or use of hazardous materials in excess of the permit quantities as defined in Title 15 of the Municipal Code. Medical gas storage or use shall be allowed up to 1,008 cubic feet per gas type and flammable liquids storage and use shall be allowed up to 20 gallons total (including waste).

(95.1) (A) “Medical research” means a use related to medical and/or dental research, testing and analysis, including but not limited to trial and clinical research. Biomedical and pharmaceutical research and development facilities are not included in this definition. Medical Research does not include the storage or use of quantities of hazardous materials above the exempt quantities listed in Title 15 of the Municipal Code nor any toxic gas regulated by Title 15. Additionally, Medical Research may include storage and use of etiological (biological) agents up to and including Risk Group 2 or Bio Safety Level 2 (Center for Disease Control).

(95.2) (B) “Medical support retail” means a retail use providing sales, rental, service, or repair of medical products and services to consumers or businesses, and whose location near hospitals or medical offices facilitates the provision of medical care or medical research. Examples of medical retail uses typically include, but are not limited to, pharmacies, sale of prosthetics, and sale of eyeglasses or other eye care products.

(95.3) (C) “Medical support service” means a use providing administrative support functions for healthcare providers or facilities, intended to support the operations of hospitals or of medical and dental office uses, and whose location near those medical facilities enhances the interaction between medical providers and/or facilitates the provision of medical care or medical research. Examples of medical support service uses typically include, but are not limited to, administration and billing services, public relations, training, and fundraising. Hospitals and ambulance services are not included in this definition.
(114) “Personal service” means a use providing services of a personal convenience nature, and cleaning, repair or sales incidental thereto, including:

(A) Beauty shops, nail salons, day spas, and barbershops;

(B) Self-service laundry and cleaning services; laundry and cleaning pick-up stations where all cleaning or servicing for the particular station is done elsewhere; and laundry and cleaning stations where the cleaning or servicing for the particular station is done on site, utilizing equipment meeting any applicable Bay Area Air Quality Management District requirements, so long as no cleaning for any other station is done on the same site, provided that the amount of hazardous materials stored does not at any time exceed the threshold which would require a permit under Title 17 (Hazardous Materials Storage) of this code;

(C) Repair and fitting of clothes, shoes, and personal accessories;

(D) Quick printing and copying services where printing or copying for the particular service is done on site, so long as no quick printing or copying for any off-site printing or copying service is done on the same site;

(E) Internet and other consumer electronics services;

(F) Film, data and video processing shops, including shops where processing for the particular shop is done on site, so long as no processing for any other shop is done on the same site;

(G) Art, dance or music studios intended for an individual or small group of persons in a class (see “commercial recreation” for other activities); and

(H) Fitness and exercise studios, or similar uses, in a space having of 1,800 5,000 square feet or fewer of gross floor area (see “commercial recreation” for uses exceeding 5,000 square feet other activities).

(I) Learning centers intended for individual or small group settings, including tutoring, standardized test preparation, language classes, after-school programs, cooking classes, and similar uses.

[.. .]

(125) “Retail service” means a use open to the public during typical business hours and predominantly engaged in providing retail sale, rental, service, processing, or repair of items primarily intended for consumer or household use.

(A) “Extensive retail service,” as used with respect to parking requirements, means a retail sales use having more than seventy-five percent of the gross floor area used for display, sales, and related storage of bulky commodities, including household furniture and appliances, lumber and building materials, carpeting and floor covering, air conditioning and heating equipment, and similar goods, which uses have demonstrably low parking demand generation per square foot of gross floor area.
“Intensive retail service” as used with respect to parking requirements, means any retail service use not defined as extensive retail service and including limited food service (i.e. ‘ready-to-eat’ food and/or beverage shops without a full commercial kitchen, where food and/or beverages are ready to consume at the time of sale and any seating area is limited; examples include sandwiches, frozen desserts, non-alcoholic beverages, and baked items).

“Take-out service” means a characteristic of an eating or drinking service which encourages, on a regular basis, consumption of food or beverages, such as prepared or prepackaged items, outside of a building, in outdoor seating areas where regular table service is not provided, in vehicles parked on the premises, or off-site. Take-out service does not include intensive retail service uses, as defined in subsection (125)(B).

SECTION 3. Section 18.16.040 (Land Uses) of Chapter 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, CS) Districts) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

The uses of land allowed by this chapter in each commercial zoning district are identified in the following tables. Land uses that are not listed on the tables are not allowed, except where otherwise noted. Where the last column on the following tables ("Subject to Regulations in") includes a section number, specific regulations in the referenced section also apply to the use; however, provisions in other sections may apply as well.

(a) Commercial Zones and Land Uses

Permitted and conditionally permitted land uses for each commercial zone are shown in Table 1:

<p>| TABLE 1 | PERMITTED AND CONDITIONALLY PERMITTED USES |
| LAND USE | CN(4) | CC, CC(2) | CS (4) | Subject to Regulations In: |
| ACCESSORY AND SUPPORT USES | | | | |
| Accessory facilities and activities customarily associated with or essential to permitted uses, and operated incidental to the principal use. | P | P | P | 18.42 |
| Drive-in services or take-out services associated with permitted uses(3) | CUP | CUP | CUP | 18.42 |</p>
<table>
<thead>
<tr>
<th>Educational, Religious, and Assembly Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Business and Trade Schools</strong></td>
</tr>
<tr>
<td><strong>Churches and Religious Institutions</strong></td>
</tr>
<tr>
<td><strong>Private Educational Facilities</strong></td>
</tr>
<tr>
<td><strong>Private Clubs, Lodges, or Fraternal Organizations</strong></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Manufacturing and Processing Uses</th>
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</thead>
<tbody>
<tr>
<td><strong>Recycling Centers</strong></td>
</tr>
<tr>
<td><strong>Warehousing and Distribution</strong></td>
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<table>
<thead>
<tr>
<th>Office Uses</th>
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</thead>
<tbody>
<tr>
<td><strong>Administrative Office Services</strong></td>
</tr>
<tr>
<td><strong>Medical Offices</strong></td>
</tr>
<tr>
<td><strong>Professional and General Business Offices</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Public/Quasi-Public Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Utility Facilities</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Recreation Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commercial Recreation</strong></td>
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<tr>
<td><strong>Outdoor Recreation Services</strong></td>
</tr>
<tr>
<td>RESIDENTIAL USES</td>
</tr>
<tr>
<td>---------------------------</td>
</tr>
<tr>
<td>Multiple-Family</td>
</tr>
<tr>
<td>Home Occupations</td>
</tr>
<tr>
<td>Residential Care Homes</td>
</tr>
<tr>
<td>RETAIL USES</td>
</tr>
<tr>
<td>Eating and Drinking Services, excluding drive-in and take-out services</td>
</tr>
<tr>
<td>Retail Services, excluding liquor stores</td>
</tr>
<tr>
<td>Liquor stores</td>
</tr>
<tr>
<td>Shopping Centers</td>
</tr>
<tr>
<td>SERVICE USES</td>
</tr>
<tr>
<td>Ambulance Services</td>
</tr>
<tr>
<td>Animal Care, excluding boarding and kennels</td>
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<tr>
<td>Boarding and Kennels</td>
</tr>
<tr>
<td>Automobile Service Stations</td>
</tr>
<tr>
<td>Automotive Services</td>
</tr>
<tr>
<td>Convalescent Facilities</td>
</tr>
<tr>
<td>Day Care Centers</td>
</tr>
<tr>
<td>Small Family Day Care Homes</td>
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<tr>
<td>Large Family Day Care Homes</td>
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<tr>
<td>Small Adult Day Care Homes</td>
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<tr>
<td>Large Adult Day Care Homes</td>
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<tr>
<td>Banks and Financial Services V</td>
</tr>
<tr>
<td>General Business Services</td>
</tr>
<tr>
<td>Hotels</td>
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<tr>
<td>Mortuaries</td>
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<tr>
<td>--------------------------------</td>
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<tr>
<td>Neighborhood Business Services</td>
</tr>
<tr>
<td>Personal Services</td>
</tr>
<tr>
<td>Reverse Vending Machines</td>
</tr>
</tbody>
</table>

**TEMPORARY USES**

- Farmer’s Markets: CUP CUP CUP
- Temporary Parking Facilities, provided that such facilities shall remain no more than five years: CUP CUP CUP

**TRANSPORTATION USES**

- Parking as a principal use: CUP CUP
- Transportation Terminals: CUP CUP

P = Permitted Use  
CUP = Conditional Use Permit Required

1. Residential is only permitted: (i) as part of a mixed use development, pursuant to the provisions of Section 18.16.060(b), or (ii) on sites designated as housing inventory sites in the Housing Element of the Comprehensive Plan, (iii) on CN or CS sites on El Camino Real, or (iv) on CC(2) sites, all pursuant to the provisions of Section 18.16.060(b) and (c).

2. Except drive-in services.

3. So long as drive up facilities, excluding car washes, provide full access to pedestrians and bicyclists. A maximum of two such services shall be permitted within 1,000 feet, and each use shall not be less than 150 feet from one another.

4. For properties in the CN and CS zone districts, businesses that operate or have associated activities at any time between the hours of 10:00 p.m. and 6:00 a.m. require a conditional use permit.

5. A conditional use permit is not required for medical office or commercial recreation uses up to 5,000 square feet of gross floor area, with the following exceptions, for which a conditional use permit is always required: (A) medical office fronting on California Avenue and in the Midtown Shopping District; (B) commercial recreation uses fronting on California Avenue and in the Town and Country Village Shopping Center.

6. A conditional use permit is required for the following uses when fronting on California Avenue: (A) Fitness or exercise studios, and similar uses exceeding 1,800 square feet in gross floor area; and (B) Learning centers intended for individual or small group settings. A conditional use permit is required for
fitness or exercise studios, and similar uses exceeding 1,800 square feet in gross floor area in Town and Country Village Shopping Center.

[. . .]  

**SECTION 4.** Section 18.16.060 (Development Standards) of Chapter 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, CS) Districts) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

**18.16.060 Development Standards**

[. . .]  

(f) Size of Establishments in the CN District

In the CN district, permitted commercial uses shall not exceed the floor area per individual use or business establishment shown in Table 5. Such uses may be allowed to exceed the maximum establishment size, subject to issuance of a conditional use permit in accord with Section 18.76.010. The maximum establishment size for any conditional use shall be established by the director and specified in the conditional use permit for such use.

**TABLE 5**

**MAXIMUM SIZE OF ESTABLISHMENT**

<table>
<thead>
<tr>
<th>Type of Establishment</th>
<th>Maximum Size (sq ft)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>2,500 3,000</td>
</tr>
<tr>
<td>Retail services, except grocery stores</td>
<td>15,000</td>
</tr>
<tr>
<td>Grocery stores</td>
<td>20,000</td>
</tr>
<tr>
<td>Eating and drinking services</td>
<td>5,000</td>
</tr>
<tr>
<td>Neighborhood business services</td>
<td>2,500 3,000</td>
</tr>
</tbody>
</table>

[. . .]  

(h) Outdoor Sales and Storage

(2) In the CC district and in the CC (2) district, the following regulations shall apply to outdoor sales and storage:

(A) Except in shopping centers, all permitted office and commercial activities shall be conducted within a building, except for:

(i) Incidental sales and display of plant materials and garden supplies occupying no more than 2,000 square feet of exterior sales and display area,

(ii) Outdoor eating areas operated incidental to permitted eating and drinking services or intensive retail uses,

(iii) Farmers’ markets that have obtained a conditional use permit, and
(iv) Recycling centers that have obtained a conditional use permit.

(B) Any permitted outdoor activity in excess of 2,000 square feet shall be subject to a conditional use permit.

SECTION 5. Sections 18.18.050 (Land Uses) of Chapter 18.18 (Commercial Downtown (CD) District) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

18.18.050 Land Uses

The uses of land allowed by this chapter in each commercial zoning district are identified in the following table. Land uses that are not listed on the tables are not allowed, except where otherwise noted. Where the last column on the following tables ("Subject to Regulations in") includes a section number, specific regulations in the referenced section also apply to the use; however, provisions in other sections may apply as well.

Permitted and conditionally permitted land uses for the CD district are shown in Table 1:

<table>
<thead>
<tr>
<th>Permitted Use • CUP</th>
<th>CD-C</th>
<th>CD-S</th>
<th>CD-N</th>
<th>Subject to Regulations in Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACCESSORY USES</td>
<td></td>
<td></td>
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<tr>
<td>Accessory facilities and activities associated with or essential to permitted uses, and operated incidental to the principal use</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Drive-in or Take-out Services associated with permitted uses (2)</td>
<td>CUP</td>
<td>CUP</td>
<td>CUP</td>
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<tr>
<td>Tire, battery, and automotive service facilities, when operated incidental to a permitted retail service or shopping center having a gross floor area of more than 30,000 square feet</td>
<td>CUP</td>
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<td>18.40.160</td>
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<tr>
<td>Safe Parking</td>
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<tr>
<td>EDUCATIONAL, RELIGIOUS, AND ASSEMBLY USES</td>
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<tr>
<td>Business and Trade Schools</td>
<td>P</td>
<td></td>
<td>P</td>
<td></td>
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<tr>
<td>Churches and Religious Institutions</td>
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<td>Use Category</td>
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<tr>
<td>--------------------------------------------------</td>
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<tr>
<td>Private Educational Facilities</td>
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<td>P P CUP</td>
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<td>Private Clubs, Lodges, or Fraternal Organizations</td>
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<td>P P CUP</td>
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<td><strong>MANUFACTURING AND PROCESSING USES</strong></td>
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<td>Warehousing and Distribution</td>
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<tr>
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<td>Commercial Recreation</td>
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<td>Retail Services, excluding liquor stores</td>
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<td>Shopping Centers</td>
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<td>Use</td>
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<td><strong>Liquor Stores</strong></td>
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<td><strong>SERVICE USES</strong></td>
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<td>Animal Care, excluding boarding and kennels</td>
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<td>Ambulance Services</td>
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<td>18.30(G)</td>
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<td>Automobile Service Stations</td>
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<td>Small Family Day Care Homes</td>
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<td>Large Family Day Care Homes</td>
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<tr>
<td>Large Adult Day Care Homes</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
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<td>Financial Services, except drive-up services</td>
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<td>P</td>
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<td>General Business Services</td>
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<td>P</td>
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<td>18.18.060(d), 18.40.160</td>
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<td>Mortuaries</td>
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<td>Personal Services</td>
<td>P (4)</td>
<td>P (4)</td>
<td>P (4)</td>
<td>18.18.060(g), 18.40.160</td>
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<td>Reverse Vending Machines</td>
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<tr>
<td><strong>TRANSPORTATION USES</strong></td>
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<tr>
<td>Parking as a principal use</td>
<td>CUP</td>
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<tr>
<td>Passenger Transportation Terminals</td>
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### TEMPORARY USES

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<thead>
<tr>
<th>Description</th>
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<tbody>
<tr>
<td>Indoor Farmers’ Markets</td>
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<td>CUP</td>
<td>CUP</td>
</tr>
<tr>
<td>Temporary Parking Facilities, provided that such facilities shall remain no more than five years</td>
<td></td>
<td>CUP</td>
<td>CUP</td>
</tr>
</tbody>
</table>

P  Permitted Use  
CUP  Conditional Use Permit Required

1. Residential is only permitted as part of a mixed use development, pursuant to the provisions of Section 18.18.060(b), or on sites designated as Housing Opportunity Sites in the Housing Element of the Comprehensive Plan, pursuant to the provisions of Section 18.18.060(c).

2. Drive-up facilities, excluding car washes, provide full access to pedestrians and bicyclists. A maximum of two such services shall be permitted within 1,000 feet and each use shall not be less than 150 ft from one another.

3. A conditional use permit is not required for commercial recreation uses up to 5,000 square feet of gross floor area, with the following exceptions, for which a conditional use permit is always required: (A) medical office fronting on University Avenue; (B) commercial recreation uses fronting on University Avenue.

4. A conditional use permit is required for the following uses when fronting on University Avenue: (A) Fitness or exercise studios, and similar uses; and (B) Learning centers intended for individual or small group settings.

### SECTION 6.

Section 18.18.060 (Development Standards) of Chapter 18.18 (Commercial Downtown (CD) District) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

[. . .]

(g) Restrictions on Size of Commercial Establishments in CD-N Subdistrict

In the CD-N subdistrict, permitted commercial uses shall not exceed the floor area per individual use or business establishment shown in Table 4. Such uses may be allowed to exceed the maximum establishment size, subject to the issuance of a conditional use permit in accordance with Chapter 18.76. The maximum establishment size for any conditional use shall be established by the director and specified in the conditional use permit for such use.

//

//
TABLE 4
MAXIMUM SIZE OF ESTABLISHMENT

<table>
<thead>
<tr>
<th>Type of Establishment</th>
<th>Maximum Size (ft²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>2,500 3,000</td>
</tr>
<tr>
<td>Retail services, except grocery stores</td>
<td>15,000</td>
</tr>
<tr>
<td>Grocery stores</td>
<td>20,000</td>
</tr>
<tr>
<td>Eating and drinking services</td>
<td>5,000</td>
</tr>
</tbody>
</table>

(h) Outdoor Sales and Storage.

The following regulations shall apply to outdoor sales and storage in the CD district:

(1) CD-C Subdistrict

In the CD-C subdistrict, the following regulations apply:

(A) Except in shopping centers, all permitted office and commercial activities shall be conducted within a building, except for:

(i) Incidental sales and display of plant materials and garden supplies occupying no more than 2,000 square feet of exterior sales and display area,

(ii) Outdoor eating areas operated incidental to permitted eating and drinking services or intensive retail uses,

(iii) Farmers' markets which have obtained a conditional use permit, and

(iv) Recycling centers that have obtained a conditional use permit.

(B) Any permitted outdoor activity in excess of 2,000 square feet shall be subject to a conditional use permit.

(C) Exterior storage shall be prohibited, except recycling centers which have obtained a conditional use permit.

(2) CD-S Subdistrict

In the CD-S subdistrict, outdoor sales and display of merchandise, and outdoor eating areas operated incidental to permitted eating and drinking services and intensive retail uses shall be permitted subject to the following regulations:

(A) Outdoor sales and display shall not occupy a total site area exceeding the gross building floor area on the site, except as authorized by a conditional use permit.
(B) Areas used for outdoor sales and display of motor vehicles, boats, campers, camp trailers, trailers, trailer coaches, house cars, or similar conveyances shall meet the minimum design standards applicable to off-street parking facilities with respect to paving, grading, drainage, access to public streets and alleys, safety and protective features, lighting, landscaping, and screening.

(C) Exterior storage shall be prohibited, unless screened by a solid wall or fence of between 5 and 8 feet in height.

(3) CD-N Subdistrict

In the CD-N subdistrict, all permitted office and commercial activities shall be conducted within a building, except for:

(A) Incidental sales and display of plant materials and garden supplies occupying not more than 500 square feet of exterior sales and display area, and

(B) Farmers' markets that have obtained conditional use permits.

[. . .]

SECTION 7. Section 18.30(A).040 (Permitted Uses) of Chapter 18.30(A) (Retail Shopping (R) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code are amended to read as follows:

Except to the extent a conditional use permit is required pursuant to Section 18.30(A).050, the following uses shall be permitted in an R district:

(a) Eating and drinking services, except drive-in and take-out services.
(b) Personal services, except the following on California Avenue: beauty shops; nail salons; barbershops; and laundry and cleaning services as defined in Section 18.04.030(114)(B); fitness or exercise studios exceeding 1,800 square feet in gross floor area; and learning centers intended for individual or small group settings.
(c) Retail services.
(d) All other uses permitted in the underlying commercial district, provided they are not located on a ground floor.

SECTION 8. Section 18.30(A).050 (Conditional Uses) of Chapter 18.30(A) (Retail Shopping (R) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code are amended to read as follows:

The following uses may be conditionally permitted in an R district, subject to the issuance of a conditional use permit in accord with Chapter 18.76 (Permits and Approval):

(a) Financial services, except drive-in services, on a ground floor.
(b) All other conditional uses allowed in the underlying commercial district provided they are not located on a ground floor.
(c) Formula retail businesses on California Avenue.
(d) Beauty shops, nail salons, and barbershops, fitness or exercise studios exceeding 1,800 square feet in gross floor area; and learning centers intended for individual or small group settings.

SECTION 9. Section 18.30(C).020 (Permitted Uses) of Chapter 18.30(C) (Ground Floor (GF) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code are amended to read as follows:

(a) The following uses shall be permitted in the GF combining district, subject to restrictions in Section 18.40.160:

(1) Eating and drinking;
(2) Hotels;
(3) Personal services, except for parcels with frontage on University Avenue, where uses defined in Section 18.04.030(114)(B), (G), and (H), and (I) are not permitted;
(4) Retail services;
(5) Theaters;
(6) Travel agencies;
(7) Commercial Recreation up to 5,000 square feet in gross floor area, except for parcels with frontage on University Avenue;
(8) All other uses permitted in the underlying district, provided such uses are not on the ground floor.

(b) Elimination or conversion of basement space currently in retail or retail-like use or related support purposes is prohibited.

(c) Entrance, lobby, or reception areas serving non-ground floor uses may be located on the ground floor to the extent reasonably necessary, provided they do not interfere with the ground floor use(s), and subject to the approval of the Director.

SECTION 10. Section 18.30(C).030 (Conditional Uses) of Chapter 18.30(C) (Ground Floor (GF) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code are amended to read as follows:

(a) The following uses may be conditionally allowed on the ground floor of the GF ground floor combining district, subject to issuance of a conditional use permit in accord with Chapter 18.76 (Permits and Approvals) and with the additional finding required by subsection (b), subject to restrictions in Section 18.40.160:

(1) Business or trade school;
(2) Commercial recreation over 5,000 square feet in gross floor area or with frontage on University Avenue;
(3) Day care;
(4) Financial services, except drive in services;
(5) General business service;
(6) Learning centers intended for individual or small group settings;
(7) All other uses conditionally permitted in the applicable underlying district, provided such uses are not on the ground floor.

(b) The director may grant a conditional use permit under this section only if he or she makes the following findings in addition to the findings required by Chapter 18.76 (Permits and Approvals):

(1) The location, access or design of the ground floor space of the existing building housing the proposed use, creates exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to property in the same district.

(2) The proposed use will not be determined to the retail environment or the pedestrian-oriented design objectives of the GF combining district.

(c) Any use conditionally permitted pursuant to this section shall be effective only during the existence of the building that created the exceptional circumstance upon which the finding set forth in subsection (b) was made.

SECTION 11. 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 12. 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. The Council finds that the adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guideline sections 15061(b)(3) because it can be seen.
SECTION 14. This ordinance shall be effective on the thirty-first date after the date of its adoption and shall expire upon the earlier of June 30, 2022 or adoption of replacement legislation by the City Council. Upon expiration of this ordinance, the City Clerk shall direct the City’s codifier to update the Palo Alto Municipal Code as appropriate.

INTRODUCED: March 8, 2021
PASSED: April 12, 2021
AYES: BURT, DUBOIS, FILSETH, KOU, STONE
NOES: CORMACK, TANAKA
ABSENT:
ABSTENTION:
NOT PARTICIPATING:
ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

Assistant City Attorney

APPROVED:

City Manager

Director of Planning & Development Services
<table>
<thead>
<tr>
<th>Signer Events</th>
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Electronic Record and Signature Disclosure: Not Offered via DocuSign

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<th>In Person Signer Events</th>
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Title: Approve an Amendment to the Legal Service Agreement with Colantuono, Highsmith & Whatley, PC (Contract S17167696) to Increase the Contract Amount by an Additional $120,000 for a new Not-to-Exceed Amount of $575,000 and Extend the Term to October 1, 2027

From: Molly Stump, City Attorney

Recommendation
Staff recommends that the City Council approve and authorize an increase in the contract amount of the legal services agreement with the law firm of Colantuono, Highsmith & Whatley, PC for litigation defense in the case of Green v. City of Palo Alto, et al., Court of Appeal of the State of California, Sixth Appellate District, Case No.: H049436, (Contract S17167696), by an additional $120,000 for a total not to exceed amount of $575,000 and an extension of the contract term to October 1, 2025.

Discussion
In October 2016, the City retained Colantuono, Highsmith & Whatley, PC (Contract S17167696) to represent the City in the case of Miriam Green v. City of Palo Alto, et al., Court of Appeal of the State of California, Sixth Appellate District, Case No.: H049436.

The lawsuit was filed on October 6, 2016, decided by the Superior Court on June 24, 2021, and the City filed a notice of appeal on September 21, 2021 and Plaintiffs filed a notice of cross-appeal on October 21, 2021. The parties have jointly filed a request for stipulated reversal and approval of a settlement agreement.

Additional funds are needed for briefing and oral argument at the Court of Appeal and Superior Court on the motion for stipulated reversal and approval of settlement, estimated to occur in 2023.

Resource Impact
The estimated additional cost for the City’s contract for legal services with Colantuono, Highsmith & Whatley, PC exceeds the City Attorney’s Department budgeted funds for contractual services. Staff recommends that the appropriation to fund needed legal defense services be offset by a reduction in the General Fund Budget Stabilization Reserve (BSR).
BSR will remain at or above the City Council approved target level of 18.5%. This appropriation of additional funds, that requires a 2/3 super majority (5 votes) under the City’s Charter and Municipal Code, will be brought forward as part of the FY 2023 Mid-Year Budget Review in February 2023.

**Environmental Review**
Amendment of legal services contracts is not a project requiring environmental review under the California Environmental Quality Act (CEQA)
Title: Policy And Services Recommendation Regarding New Council Member Orientation & Onboarding Program

From: Lesley Milton, City Clerk

Recommendation
The Policy and Services Committee recommends that the City Council approve the proposed outline for a New Council Member Orientation and Onboarding program.

Background
On November 8, 2022 the voters of the City of Palo Alto selected three candidates to serve as Council Members for the next four years. Council Members Filseth and Dubois have reached their two consecutive-term limit, and Council Member Cormack has chosen not to seek reelection.

There are no experience requirements to run for elected office. Of the three selected candidates, none have served as a Council Member in Palo Alto previously. For the 2022 election, staff conducted a Candidate Information Session that provided a basis of understanding of the City’s operating structure, purpose and major projects that received great feedback. Staff has now prepared a New Council Member Orientation program that expands on that basis with the goal of effectively onboarding new Council Members. This program is proposed to include a combination of a digital resource library, a checklist of required personnel and administrative paperwork, as well as a one or two-day workshop, depending on Council Member-elect scheduling preferences. The workshop outline is included as Attachment A and includes the following nine discussion sections:

1. Introduction to the City Organization
2. Council Member Specific Information
3. Legal Update and Considerations while on Council
4. Council Meeting Procedures and Protocols
5. Policy Role in Land Use Planning
6. Financial Responsibilities, Budgeting and Performance Measurements
7. Communications and Community Engagement
8. Emergency Preparedness
9. Major Projects and Upcoming Items

The outline is intended to balance critical information about operating as a Council Member including legal obligations of serving in this capacity, more in-depth data about city operational structures and procedures with policy decisions that will come before the Council in the near future.

This outline is a basis of structure to be used for future new Council Member Onboarding as well, with the understanding that each election will have candidates of different backgrounds and experiences therefore this program will need to be adapted each election cycle.

**Timeline, Resource Impact, Policy Implications**

There is no cost associated with this project other than staff time. This process will create efficiencies in sharing information in the attached outline to all Council Member-elects.

**Environmental Review**

This is not a project.

**ATTACHMENTS:**

- **Attachment5.a:** Draft New Council Member Orientation Outline (DOCX)
New City Council Member Onboarding Program

Section 1. **Introduction to the City Organization (20 Minutes)**

1.1. Overview of the organization structure, services and Executive Leadership Team (per City Charter and Muni Code, with commentary)
   A. Role of the City Council Member/Local Elected Official
   B. Role of the City Manager
   C. Role of the City Attorney
   D. Role of the City Clerk
   E. Role of the City Auditor

1.2. Relationships between City Council, Council Appointed Officers (CAO), City Staff, and the public (per City Charter and Muni Code, with commentary)

Section 2. **Council Member Specific Information (30 Minutes)**

Council-specific information includes all the items that relate to councilmembers themselves in their new role.

2.1. Overview of Procedures and Protocols Handbook and notable norms
2.2. Regulatory Guidelines & Required trainings
2.3. Council Priority-Setting
2.4. Council members’ roles regarding Council subcommittees and service on regional boards, outside agencies and committees
2.5. Travel, Conferences and Training opportunities
2.6. Special Annual Council Events, Meetings & Cycles (Reorganization, State of the City, Strategic Planning, CAO Evaluations, Budget Adoption, Summer/Winter Recess, Annual City Sponsored Events)

Section 3. **Legal Update and Considerations while on Council (45 minutes)**

3.1. Overview of City’s legal structure
3.2. Council roles:
   A. Policymaking/legislating
   B. Quasi-judicial decision making
3.3. Key laws:
   A. Open Meetings (Brown Act)
   B. Conflicts of Interest (Political Reform Act, etc.)
   C. Public Records Act
Section 4. **Council Meeting Protocols (20 Minutes)**

4.1. Logistics: Schedules, seating, attendance, technology, meeting etiquette
4.2. Agenda Structure & Rules of Procedure
4.3. Packet production process and schedules, Staff Report timelines
4.4. How/when to pose questions before, and during a meeting
4.5. Closed Session practices

Section 5. **Policy Role in Land Use Planning (45 Minutes)**

5.1. Review of land use planning terms
5.2. Development review/approval process
5.3. Role of Council in land use matters
5.4. Role of planning or zoning commissions/boards
5.5. Schedule of general plan, Housing Element, development projects or other policy documents that are coming to the council in the upcoming year

Section 6. **Financial Responsibilities, Budgeting and Performance Measurements (30 Minutes)**

Review the basics of the financial structure and condition to help councilmembers understand their fiduciary responsibilities.

6.1. Fiscal Calendar & Budget Approval Schedule
6.2. Financial position of the City
6.3. Explanation of fund structure
6.4. Overview of the most recent comprehensive audit and financial report (CAFR)
6.5. Operating and capital budget cycle
6.6. Investment and treasury policies
6.7. Schedule for financial reporting to the council
6.8. Unfunded liabilities (e.g., post-employment benefits)
6.9. Pension and OPEB Trusts
6.10. Performance Tracking

Section 7. **Communications and Community Engagement (30 Minutes)**

7.1. City Communications Overview
7.2. Social Media Use
7.3. Community Engagement Activities Planned to Implement the City’s Workplans
Section 8.  **Emergency Preparedness (20 Minutes)**  
Due to the unique and critical role local governments play regarding emergency preparedness, a briefing on this topic is key.

8.1. Council role in the event of a community emergency  
8.2. Public Safety organizational structure  
8.3. Emergency Communications

Section 9.  **Department Topics & Q&A (45 Minutes)**

9.1. Major Projects Overview  
9.2. Summary of the Tentative Agenda of Upcoming Council Agenda Items  
9.3. Open Floor
Summary Title: 419 Palm: Request for a Building Permit Extension to Allow for Final Occupancy

Title: QUASI-JUDICIAL. 419 Palm (14PLN-00410): Consideration to Approve a Building Permit Extension in Accordance With Palo Alto Municipal Code Section 16.04.090. Environmental Analysis: A Mitigated Negative Declaration was Approved on September 2, 2016.

From: City Manager

Lead Department: Planning and Development Services

Recommendation
Staff recommends that the City Council approve a building permit extension for a single-family residential project at 419 Palm Street.

Background
In September 2016, the Director of Planning and Development Services approved the Individual Review and Variance application for a proposed two-story residence located at 419 Palm Street (Attachment A). The site is located along the bank of San Francisquito Creek. The previous residence encroached into the creek bank, constricting the channel during storm events. Removal of the existing home eliminated this constraint and replaced it with a house outside the channel that complies with current Flood Emergency Management Agency (FEMA) requirements.

As part of the application process, the City coordinated with wildlife and water resource agencies to receive input on the project. The concrete foundation within the vertical creek channel, which was keyed into the bank, was proposed to remain; its removal would have required extensive permitting from relevant agencies (Regional Water Quality Control Board (RWQCB), Army Corps of Engineers, Valley Water, and California Department of Fish and Wildlife (CDFW)). The applicant proposed to remove the home and associated foundation in areas above the adjacent sacked concrete wall (i.e. outside of the vertical channel). The area
above the wall was proposed to be regraded to conform to the upstream and downstream areas at the rear of the property and to slope that back away from the vertical channel. Any exposed soil areas were proposed to be revegetated. This proposal was reflected in the relevant technical analyses for the project (e.g. hydraulic analysis) and in the plans that were approved for planning entitlement and building permit. The applicant agreed to provide an easement to Santa Clara Valley Water District (SCVWD) as part of the proposed project; this was stipulated as a condition of the planning entitlement.

During construction, the removal of the existing home revealed that the previous home’s foundation was a slab-on-grade design that was connected to the concrete wall within the creek. It was unclear to what extent the existing slab and the retaining walls of the previous home’s foundation were integral to the stability of the concrete wall within the creek. The applicant’s civil engineer recommended retaining the slab and associated retaining walls. The analysis did not prove that it was infeasible to construct as originally proposed but created uncertainty regarding the conclusions of previous reports submitted by the applicant. The analysis had determined that the proposed (and ultimately approved) design would not affect the stability of the creek bank. The applicant alternatively proposed to retain the slab and portions of the walls of the former home, a condition that had not yet been evaluated.

Because this proposal deviated from the approved plans and associated technical analyses, the City and SCVWD requested technical reports and plans to support the new proposed condition of the site. By the end of 2018, construction of the new home was completed, so the City issued a temporary certificate of occupancy to the applicant. The City required execution of a Temporary Occupancy Agreement to document the outstanding items requiring resolution prior to final occupancy. This executed agreement is included in Attachment B. The City granted temporary occupancy on December 21, 2018.

**Discussion**

From 2019 onward, the applicant proposed design considerations that could not be supported by the City, SCVWD, or relevant wildlife and/or water resource agencies. There were often extensive lead times between submittals from the applicant and long lead times for SCVWD review. The property owner filed and obtained extensions on their building permit as these discussions, primarily among the City, property owner, and SCVWD, continued. The three allowed extensions have now been exhausted. In accordance with PAMC Section 16.04.090 the Chief Building Official is authorized to grant, in writing, no more than three extensions and reactivations of permits that would otherwise expire, or reactivations of expired permits. Additional extensions or reactivations beyond three may only be granted with the approval of the City Council.

The applicant has now provided the required technical documentation to demonstrate to the
City and SCVWD that its most recent proposal is acceptable. A final building permit extension is required to allow this work to be completed.

Policy Implications
Approval of the building permit extension would not have significant policy implications. A further extension is allowed in accordance with the Palo Alto Municipal Code, with approval from Council. Approval of the extension would allow for the City to issue final occupancy following the execution of an easement dedication to Valley Water, satisfying the final conditions of approval of the proposed project.

Resource Impact
A fourth extension of the building permit would not have a resource impact on the City. The applicant has filed a building permit revision for the proposed condition of the property and paid the applicable fees. The extension would allow the City to reactivate the building permit, issue the revision that reflects the proposed site conditions, and issue final occupancy following the execution of the easement dedication.

Under the temporary occupancy agreement, the applicant did not complete the remaining items in the timeframe set forth in the agreement. Therefore, the City does have the authority to issue penalties. Staff has not enacted this authority to date, given the continued discussions toward a resolution.

Timeline
The applicant has already prepared the technical reports (hydraulic analysis) and submitted the associated plans to the City as part of a building permit revision. SCVWD and the City have requested minor modifications to these plans for clarification. The proposed post-project condition has been discussed with the RWQCB and designed, based on their feedback, in a manner that does not require further permits. The easement dedication agreement has been drafted. Although the final language is still under review, staff anticipates completion of the easement dedication within the next quarter.

Stakeholder Engagement
The City has worked with SCVWD (and thereby indirectly with the San Francisquito Creek Joint Powers Authority), RWQCB, the applicant, and the applicant’s consultants to evaluate potential solutions and determine a path toward a resolution that would satisfy all parties and complete the conditions of approval of the project.

Environmental Review
The project was assessed in accordance with the authority and criteria under the California Environmental Quality Act (CEQA). The City circulated a Mitigated Negative Declaration (MND)
for the proposed project on June 10, 2016, which ended on June 30, 2016. The City filed a Notice of Determination for the approved project in September 2016. The proposed post-project condition along the creek bank does not include new work, beyond what was assessed in the Final MND. The project would be less impactful than the previous project in that it does not include regrading in the location of the previous structure. A portion of the foundation would remain, including the slab that connects to the vertical concrete wall within the channel, and a portion of the former walls of the foundation. Hydraulic modeling shows that the proposed post-project condition is designed to withstand the anticipated flow and velocity of the water within San Francisquito Creek, as identified by SCVWD, for storm events that would overtop the vertical channel.

Attachments:

Attachment6.a: Attachment A: Original Approval Letter (PDF)
Attachment6.b: Attachment B: Executed Temporary Occupancy Agreement (PDF)
September 2, 2016

Stacey Olgado
831 Melville Ave.
Palo Alto, CA 94301

SUBJECT: 419 Palm Street, Individual Review 14PLN-00410, REVISED

On August 19, 2016, the Director of Planning and Community Environment conditionally approved Single Family Individual Review application 14PLN-00410, a request by Stacey Olgado on behalf of Di-Ann Eisnor for Individual Review (IR) and a variance for demolition of the existing home, which protrudes into the adjacent creek, and construction of a new 3,400 sf two-story home with dedication of an approximately 1,633 sf easement to the Santa Clara Valley Water District for control of the San Francisquito Creek. The project also includes variances for floor area (122 sf), small side setback protrusion, and location of parking space. The site is located in the R-1(10,000) zoning district. Palo Alto Municipal Code (PAMC) Section 18.76.030, based on the findings listed below, and the Individual Review (IR) application pursuant to PAMC Section 18.12 and 18.77 (Sections 18.12.110 and 18.77.075). On September 2, the tentative approval and conditions of approval were revised to document the City’s approval of the Mitigated Negative Declaration (MND) as well as adoption of all mitigation measures identified in the MND, as outlined in the Mitigation Monitoring and Reporting Program. This was added as Condition #3 to the original conditions of approval. As per the revised condition, the project meets all five of the Palo Alto Single Family Individual Review Guidelines and complies with the R-1 Zone District development regulations. The City has hereby approved the Mitigated Negative Declaration, prepared in accordance with the California Environmental Quality Act. The Public Notice period for the MND began on June 10, 2016 and concluded on June 30, 2016.

The 14-day appeal period for the tentative approval will end 14 days from the date of the original approval on August 19, 2016, at which time the above project would be deemed approved with revised conditions of approval. This letter and attached conditions and findings shall be printed onto building permit plans relating to this approval. If the building permit has not been issued and construction commenced within one year from the effective approval date, this approval will expire. A written request for an extension may be submitted prior to the expiration date. The Director may grant a one-year extension of this approval.

Should you have any questions regarding this approval, please do not hesitate to contact Claire Hodgkins at claire.hodgkins@cityofpaloalto.org.

Sincerely,

/s/

Jodie Gerhardt, AICP
Manager of Current Planning

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

The approval is subject to the following conditions:

**PLANNING DIVISION CONDITIONS:**

1. **CONFORMANCE WITH PLANS.** Construction and development shall conform to the approved plans entitled “Eisnor Residence, New Two-Story House, 419 Palm St. Palo Alto, CA94301”, dated 2-15-16, stamped as received by the City on March 07, 2016, on file with the Planning Division, 250 Hamilton Avenue, Palo Alto, California, except as modified by these conditions of approval.

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

3. **MITIGATION MONITORING AND REPORTING PROGRAM.** The applicant will comply with all mitigation measures, as outlined in the attached mitigation monitoring and reporting program.

   *The above referenced condition was added in compliance with the California Environmental Quality Act.*

4. **BUILDING PERMIT PLAN SET.**
   a. A copy of this cover letter and conditions of approval shall be printed on the second page of the plans submitted for building permit.
   b. A note shall be added to the Proposed Site Plan that an encroachment permit shall be obtained from the Santa Clara Valley Water District (SCVWD) to allow portions of the buildings to overhang the future (new) easement, and any other encroachments.
   c. The Site Plan shall clearly show areas within 10x the diameter of the protected oak and the cottonwood trees, where pier and grade beam foundation is required, with grade beams at or above grade. The sections shall be corrected accordingly. If traditional foundation is used instead, the life span of the Cottonwood is likely to be reduced. To compensate for the early death, three (3) new trees of native riparian species (such as White Alder, Black Cottonwood, California Sycamore, or California Bay Laurel) could be planted as proactive replacements. Replacements would have enough time to become established and serve similar functions for creek bank stabilization and shading. Placement should be strategic to grow into the space which will eventually be vacated by the existing Cottonwood. The Cottonwood should still be retained and protected to the extent practical.
   d. The pool equipment and enclosure, tall due to the need to be above BFE, shall be well screened by vegetation from the street. It will be moved to in front of the garage wall, inside the planter
on the left side of the driveway, in a manner more integrated with the building and landscape (planter), reviewed and found approvable by Planning during the building permit process.

e. Chemical storage associated with the proposed pool shall be located a minimum of 50 feet from the top of the bank and all outdoor night lighting shall be directed away from the riparian corridor.

f. The north arrow on the plans shall be corrected to show true north consistent with the survey, and a project north may be added for convenience.

g. The bay window of Study upstairs shall be revised to show bottom of framing being at least 18 inches above the adjacent floor, and over 50% of wall surfaces to be windows, and any south facing windows shall be obscured to at least 5'-6" above floor.

h. The Master Bedroom balcony shall be dimensioned to be 5'-9" deep.

i. Proposed site plan notes 2'-0' rock wall at front property line, but front elevation notes natural color concrete for the same wall. Please make consistent.

j. C1 shall show surface flow arrows away from oak tree #10 in all directions.


5. OBSCURED GLAZING. All obscure glazing, as shown on the plan set, shall be permanent in nature and shall remain for the life of the structure. Obscure glazing is either decorative glazing placed into the window frame that does not allow views through or acid etched or similar permanent alteration of the glass. Films or like additions to clear glass are not permitted where obscure glazing is shown. Obscure glazing shall not be altered in the future and shall be replaced with like materials if damaged.

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

7. SCVWD EASEMENT. The property owner shall dedicate and record a new easement to the SCVWD 5 feet landward from the projected future flood wall, resulting in a new easement of approximately 1,633 sf. The general location of this easement is shown as “(N) SCVWD easement” on Sheet A1.2 of the approved plans. The terms and conditions of this easement shall be negotiated with the SCVWD. Proof of such easement shall be provided to the City prior to release of any Building permit.

8. SCVWD ENCRASHMENT PERMIT. A note shall be added to the Proposed Site Plan that an encroachment permit shall be obtained from the Santa Clara Valley Water District (SCVWD) to allow portions of the buildings to overhang the future (new) easement, and any other encroachments. That permit may involve the applicant’s commitment of funds to cover the cost of future removal of the foundation of the old house and repair of that portion of the creek bank. The terms and conditions of the encroachment will be negotiated with the SCVWD. Proof of such encroachment permit shall be provided to the City prior to release of any Building permit.
9. **EXISTING HOME FOUNDATION.** Until the construction of a new flood wall by the SCVWD, the applicant shall be allowed to retain portions of the existing home foundation, provided the following are implemented, prior to final Planning inspection:
   a. The existing structure shall be removed down to a horizontal line at the top of the adjacent sacked concrete wall or the top of the foundation, whichever is lower, at owner’s expense.
   b. The creek bank above the remaining foundation structure shall be graded per a final grading and drainage plan and revegetated per a final landscape plan subject to approval by the Public Works Engineering Division and the Director of Planning.

10. **UTILITY LOCATIONS:** In no case shall utilities be placed in a location that requires equipment and/or bollards to encroach into a required parking space.

11. **LIGHTING.** All outdoor night lighting shall be directed away from the riparian corridor.

12. **BAY WINDOWS:** Bay windows if at least 18 inches above the interior floor, projecting no more than two feet, and with more than 50% window surface shall not be counted towards the home’s floor area ratio (FAR). Any changes to proposed bay windows must first be reviewed and approved by the Director of Planning and Community Environment.

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

14. **CONSTRUCTION NOISE REQUIREMENTS.** As required by the City’s Building Official, signage shall be posted at all entrances to the construction site upon commencement of construction for the purposes of informing all contractors and subcontractors, their employees, agents, material men and all other persons at the construction site, of the basic requirements of the Noise Ordinance. Said sign shall read as follows:

   **CONSTRUCTION HOURS FOR RESIDENTIAL PROPERTIES**
   (Includes any and all deliveries)
   MONDAY – FRIDAY 8:00AM and 6:00PM
   SATURDAY 9:00AM to 6:00PM
   SUNDAY/HOLIDAYS Construction Prohibited

   - Violation of this Ordinance is a misdemeanor punishable by a maximum of six months in jail, $1,000 fine, or both. Violators will be prosecuted. P.A.M.C §9.10.060(b).
   - All construction equipment powered by internal combustion engines shall be properly muffled and maintained in good working order
   - Unnecessary idling of internal combustion engines shall be prohibited.
   - All stationary noise-generating construction equipment such as concrete crushers, generators, and pumps, shall be located as far as practical from existing nearby residences and other noise-sensitive land uses. Equipment shall be acoustically shielded.
• Quiet construction equipment, particularly air compressors, shall be selected whenever possible.

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

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

17. TREE PROTECTION FENCING. Tree protection fencing as shown on Arborist’s report on T2 shall be installed before any demolition.

18. FENCES. Fences and walls shall comply with the applicable provisions of Chapter 16.24, Fences, of the Palo Alto Municipal Code (PAMC)

19. PLANNING FINAL INSPECTION. A Planning Division Final inspection will be required to determine substantial compliance with the approved plans prior to the scheduling of a Building Division final. Any revisions during the building process must be approved by Planning, including but not limited to; materials, fenestration and hard surface locations. Contact the Project Planner to schedule this inspection. Special attention shall be paid to:
   a. Four (4) obscured stacked windows at the stairwell, three (3) obscured upper transoms on the right side of Living Room, and south facing window at the bay of Study obscured to 5'–6" above floor minimum.
   b. Two inch cedar siding for most of house and garage door,
   c. Chemical storage shall be located a minimum of 50 feet from the top of the bank and all outdoor night lighting shall be directed away from the riparian corridor.

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

GREEN BUILDING & ENERGY REACH CODE REQUIREMENTS:

Please be advised that the Palo Alto City Council has approved Energy Ordinance 5326 and Green Building Ordinance 5326 for all new permit applications, effective starting June 22nd, 2015, as summarized below. To review the specific changes, visit the Development Services webpage. On the left hand side under “explore”, hover over “Green Building” and select “Compliance” You may also email Melanie Jacobson at Melanie.Jacobson@CityofPaloAlto.org for specific questions about your project.

1) GREEN BUILDING CONDITIONS OF APPROVAL
a) The project is a new construction residential building of any size and therefore must meet the California Green Building Code mandatory requirements outlined in Chapter 4, (with local amendments) plus Tier 2 minimum pre-requisites and electives outlined in Appendix A4* (with local amendments). The project must hire a Green Building Special Inspector for a pre-permit third-party design review and a third-party green building inspection process. The project must select a Green Building Special Inspector from the City’s list of approved inspectors. PAMC 16.14.080 (Ord. 5324 § 1 (part), 2015)

*Note: Projects subject to Tier 1 or Tier 2 shall not be required to fulfill any requirements outlined in Appendix A4.2 Energy Efficiency. All energy efficiency measures are found in the 2013 California Energy Code and the Palo Alto Energy Reach Code PAMC 16.17 & 16.18 as described in the Energy Reach Code section below.

b) EMERGENCY DROUGHT REGULATIONS: The project is a residential new construction project with a landscape of any size included in the project scope and therefore must comply with Potable water reduction Tier 2 in accordance with the Emergency Drought Regulations effective June 1st, 2015. Documentation is required to demonstrate that the Estimated Total Water Use (ETWU) falls within a Maximum Applied Water Allowance (MAWA) using the ET adjustment factor (ETAF) of 0.55 for landscaped areas. Vegetable gardens and other areas that qualify as Special Landscape Areas (SLA) will be given an ETAF of 1.0. (PAMC 16.14 (Ord. 5324 § 1 (part), 2015) and the Emergency Drought Regulations link below. The project applicant shall indicate the requirements on the Permit Plans.


c) The project is a residential construction project of any size and therefore must meet the enhanced construction waste reduction at tier 2 (75% construction waste reduction). PAMC 16.14.160 (Ord. 5324 § 1 (part), 2015)

d) The project is a new detached single-family dwelling and therefore shall comply with the following requirements for electric vehicle supply equipment (EVSE) as shown in :

(a) The property owner shall provide as minimum a panel capable to accommodate a dedicated branch circuit and service capacity to install at least a 208/240V, 50 amperes grounded AC outlet (Level 2 EVSE). The raceway shall terminate in close proximity to the proposed location of the charging system into a listed cabinet, box, enclosure, or receptacle. The raceway shall be installed so that minimal removal of materials is necessary to complete the final installation. The raceway shall have capacity to accommodate a 100-ampere circuit.

(b) Design. The proposed location of a charging station may be internal or external to the dwelling, and shall be in close proximity to an on-site parking space. The proposed design must comply with all applicable design guidelines, setbacks and other code requirements. PAMC 16.14.420 (Ord. 5234 § 2, 2015)

2) LOCAL ENERGY REACH CODE CONDITIONS OF APPROVAL

a) The project includes new residential construction of any size and therefore triggers the Local Energy Efficiency Reach Code. For all new single-family residential, the performance approach specified within the 2013 California Energy Code shall be used to demonstrate that the TDV
Energy of the proposed building is at least 15% less than the TDV Energy of the Standard Design. (Ord. 5324 § 1 (part), 2015)

PUBLIC WORKS URBAN FORESTRY CONDITIONS – Walter Passmore

Tree Protection Zones (TPZ) must have a radius equal to 10 times the diameter of the tree trunk. Any infringement into the TPZ must be quantified and mitigation practices prescribed by the project arborist. Infringements may not exceed 25% of the area of the TPZ. Type I protection measures are required for all trees located on the private property, Type II is only appropriate for street trees. Show actual TPZ on site plan with distances scaled to closest impact where the limits of construction infringe into the TPZ.

PLANS--SHOW PROTECTIVE TREE FENCING. The Plan Set (esp. site, demolition, grading & drainage, foundation, irrigation, tree disposition, utility sheets, etc.) must delineate/show Type I or Type II fencing around each Regulated Tree, using a bold dashed line enclosing the Tree Protection Zone as shown on Standard Dwg. #605, Sheet T-1, and the City Tree Technical Manual, Section 6.35-Site Plans; or use the Project Arborist’s unique diagram for each Tree Protection Zone enclosure."

The Site Plan shall clearly show areas within 10x the diameter of the protected oak and the cottonwood trees, where pier and grade beam foundation is required, with grade beams at or above grade. The sections shall be corrected accordingly. If traditional foundation is used instead, the life span of the Cottonwood is likely to be reduced. To compensate for the early death, three (3) new trees of native riparian species (such as White Alder, Black Cottonwood, California Sycamore, or California Bay Laurel) could be planted as proactive replacements. Replacements would have enough time to become established and serve similar functions for creek bank stabilization and shading. Placement should be strategic to grow into the space which will eventually be vacated by the existing Cottonwood. The Cottonwood should still be retained and protected to the extent practical.

TREE PRESERVATION ASSESSMENT/IMPACT MITIGATION.

a) Both the Site Plan and the prepared TPR shall show and describe the relationship of proposed grading and utility trenching to the trees designated for preservation. The architect/engineer/arborist shall address and recommend design changes and/or viable mitigation measures for the tree(s). The TPR scope shall specifically describe foreseeable impacts and recommend design adjustments or alternatives needed to reduce or eliminate impacts to retained trees, including public trees adjacent to the site. Applicant and arborist shall use the criteria set forth in the tree preservation ordinance, PAMC 8.10.030/080, and the CPA Tree Technical Manual, Section 3.00, 4.00 and 6.30, available at: (http://www.cityofpaloalto.org/environment/urban_canopy.asp).

b) Unless otherwise mitigated and approved by the Director on the basis of a final TPR, all development activity shall be located outside the dripline of a protected tree, including any grading, foundation, excavation, fill, etc. An approved TPR will also provide information for the following critical areas:

- TPR scope will include any staging or logistics area associated with building the project. Include street trees adjoining the project. Tree Protection Zone (TPZ). List the precise recommended TPZ fencing placement for each tree (in feet), specify Type I around protected trees street trees to be enclosed.
Specify fence placement changes after demolition occurs. Describe the watering schedule for all trees within the scope of the TPR.

• Design changes. The TPR must propose mitigation measures or design changes for drainage, grading, underground trenching, foundations, cut, fill, compaction, exclusion area from irrigation, etc. For the purposes of the TPR, existing utilities to be accessed, upgraded, remain or repaired shall be considered for mitigation.

• Inspections during construction. The TPR will outline a proposed site arborist inspection and reporting schedule to be followed for all trees retained, protected and relocated. Site inspections are required for implementation and success of the TPR. See Sheet T-1, Checklist.

• To avoid improvements that may be detrimental to the regulated tree health, the TPR may need to review a basic landscape plan submitted by the applicant to ensure the new landscape is consistent with CPA Tree Technical Manual, Section 5.45 and Appendix L, Landscaping under Native Oaks.

PRIOR TO DEMOLITION, BUILDING OR GRADING PERMIT ISSUANCE

1. BUILDING PERMIT SUBMITTAL- PROJECT ARBORIST CERTIFICATION LETTER. Prior to submittal for staff review, attach a Project Arborist Certification Letter that he/she:
   a) reviewed the entire building permit plan set submittal and,
   b) verified all his/her updated TPR mitigation measures and changes are incorporated in the plan set,
   c) verified that landscape and irrigation plans are consistent with CPA Tree Technical Manual, Section 5.45 and Appendix L, Landscaping under Native Oaks and PAMC 18.40.130.
   d) affirmed that ongoing Contractor/Project Arborist site monitoring inspections and reporting have been arranged with the contractor or owner (see Sheet T-1) and,
   e) understands that design revisions (site or plan changes) within a TPZ will be routed to Project Arborist/Contractor for review prior to approval from City.

2. BUILDING PERMIT CORRECTIONS/REVISIONS--COVER LETTER. Provide a separate cover letter with Correction List along with the revised drawings when resubmitting. State where the significant tree impacts notes occur (bubble) and indicate the sheet number and/or detail where the correction has been made. Provide: 1) corresponding revision number and 2) bubble or highlights for easy reference. Responses such as “see plans or report” or “plans comply” are not acceptable. Your response should be clear and complete to assist the re-check and approval process for your project.

3. PLAN REQUIREMENTS. The final Plans submitted for building permit shall include the following information and notes on relevant plan sheets:
   a. SHEET T-1, BUILDING PERMIT. The building permit plan set will include the City’s full-sized, Sheet T-1 [Tree Protection-it’s Part of the Plan]), available on the Development Center website at http://www.cityofpaloalto.org/civicax/filebank/documents/31783. The Applicant shall complete and sign the Tree Disclosure Statement and recognize the Project Arborist Tree Activity Inspection Schedule. Monthly reporting to Urban Forestry and Contractor are mandatory. (Insp. #1: applies to all projects; with tree preservation report Insp. #2-6 applies; with landscape plan: Insp. #7 applies.)
b. The Tree Preservation Report (TPR). All sheets of the Applicant’s TPR approved by the City for full implementation by Contractor, *(Arborist Report & Tree Protection Plan, dated October, 2015)* shall be printed on numbered Sheet T-1 (T-2, T-3, etc.) and added to the sheet index.

4. **Show Protective Tree Fencing.** The Plan Set (esp. site, demolition, grading, foundation, irrigation, tree disposition, utility, etc.) must delineate/show Type I or Type II fencing around each Regulated Trees, using a bold dashed line enclosing the Tree Protection Zone as shown on Standard Dwg. #605, Sheet T-1, and the City Tree Technical Manual, Section 6.35-Site Plans; or using the Project Arborist’s unique diagram for each Tree Protection Zone enclosure.

5. **ADD SITE PLAN NOTES:**
   i. **Note #1.** Apply to the site plan stating, "All tree protection and inspection schedule measures, design recommendations, watering and construction scheduling shall be implemented in full by owner and contractor, as stated in the Tree Protection Report on Sheet T-1 and the approved plans”.
   ii. **Note #2.** All civil plans, grading plans, irrigation plans, site plans and utility plans and relevant sheets shall add a note applying to the trees to be protected, including neighboring trees stating: "Regulated Tree--before working in this area contact the Project Site Arborist Elizabeth Latham at 669-236-7619 (cell) or 650-475-5400(office)";
   iii. **Note #3.** “Basement or foundation plan. Soils Report and Excavation for foundation or basement construction within the TPZ of a protected tree shall specify a vertical cut (stitch piers may be necessary) in order to avoid over-excavating into the tree root zone. Any variance from this procedure requires Urban Forestry approval, please call (650) 496-5953.”
   iv. **Note #4.** Utility (sanitary sewer/gas/water/backflow/electric/storm drain) plan sheets shall include the following note: “Utility trenching shall not occur within the TPZ of the protected tree. Contractor shall be responsible for ensuring that no trenching occurs within the TPZ of the protected tree by contractors, City crews or final landscape workers. See sheet T-1 for instructions.”

6. **TREE PROTECTION VERIFICATION.** Prior to demolition, grading or building permit issuance, a written verification from the contractor that the required protective fencing is in place shall be submitted to the Building Inspections Division. The fencing shall contain required warning sign and remain in place until final inspection of the project.

**DURING CONSTRUCTION**

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

8. **PLAN CHANGES.** Revisions and/or changes to plans before or during construction shall be reviewed and responded to by the (a) project site arborist, or (b) landscape architect with written letter of acceptance before submitting the revision to the Building Department for review by Planning, PW and Urban Forestry.
9. TREE PROTECTION COMPLIANCE. The owner and contractor shall implement all protection and inspection schedule measures, design recommendations and construction scheduling as stated in the TPR, and is subject to code compliance action pursuant to PAMC 8.10.080. The required protective fencing shall remain in place until final landscaping and inspection of the project. Project arborist approval must be obtained and documented in the monthly activity report sent to the City. A mandatory Monthly Tree Activity Report shall be sent monthly to the City (pwps@cityofpaloalto.org) beginning with the initial verification approval, using the template in the Tree Technical Manual, Addendum 11.

10. TREE DAMAGE. Tree Damage, Injury Mitigation and Inspections apply to Contractor. Reporting, injury mitigation measures and arborist inspection schedule (1-5) apply pursuant to TTM, Section 2.20.2.30. Contractor shall be responsible for the repair or replacement of any publicly owned or protected trees that are damaged during the course of construction, pursuant to Title 8 of the Palo Alto Municipal Code, and city Tree Technical Manual, Section 2.25.

11. GENERAL. The following general tree preservation measures apply to all trees to be retained: No storage of material, topsoil, vehicles or equipment shall be permitted within the tree enclosure area. The ground under and around the tree canopy area shall not be altered. Trees to be retained shall be irrigated, aerated and maintained as necessary to ensure survival.

PRIOR TO OCCUPANCY

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

PUBLIC WORKS ENGINEERING CONDITIONS    Michel Jeremias, 329-2446

PRIOR TO ISSUANCE OF A DEMOLITION PERMIT

1. As discussed at a site meeting on August 2015, the removal of the existing building foundation and the associated creek bank restoration will require permits from other agencies. Should the existing foundation need to be removed and creek bank restored at any time during the project the applicant shall obtain permits from the relevant agencies and submit a copy of the issued permits to the City.

2. DEMOLITION PLAN: Place the following note adjacent to the affected trees on the Site Plan and Demolition Plan: “Excavation activities associated with the proposed scope of work shall not occur closer than 30-feet from the existing Fremont cottonwood tree, or as approved by Urban Forestry Division. Contact Urban Forestry at 650-496-5953 to inspect the tree protection fencing prior to the demolition of existing building.” In addition plot and label the 30-foot radius for the tree protection zone on the plans, include the 30-foot radius dimension.
3. **ENCROACHMENT PERMIT:** Submit a copy of the encroachment permit from Santa Clara Valley Water District for the proposed project.

4. **LOGISTICS PLAN:** As described in August the contractor will not encroach into the creek to remove the building or construct the project. Submit a logistics plan that shows how the existing building is proposed to be removed and proposed project constructed. Plan shall include erosion control measures needed to stabilize the creek bank, clearly identify the structures and landscape areas to remain and to be protected. Plans shall also include the means to capture any debris before it enters into the creek and any measures necessary to contain leaks within the project site. Plot and label the top of bank, silt fence, construction entrance, staging and storage area for materials and equipment. Provide description of how the building demolition and proposed development is to occur without encroaching into the creek or creek bank. Provide detailed notes for the contractor to follow during demolition and project construction that would avoid damaging or causing erosion into the creek. Additional information regarding the logistics plan guidelines is available on the City’s website. See attached link. [http://www.cityofpaloalto.gov/depts/pwd/forms_and_permits.asp](http://www.cityofpaloalto.gov/depts/pwd/forms_and_permits.asp)

5. The following item was not addressed with the submittal. Provide the slope stability analysis prepared by the Geotechnical Engineer on record to document the following statements:
   a. The proposed structure (house, shoring, pool) will be designed in such a manner as to not cause instability in the modified creek bank.
   b. The creek bank will be modified and protected in such a manner as to prevent bank erosion that could threaten the stability of the proposed structures.

6. The following item was not addressed with the submittal. Submit the geotechnical and structural analysis that addresses how the construction of the future SCVWD wall is to be accomplished once the proposed structures are completed. In addition verify that the construction of the SCVWD wall will not jeopardize the stitch pier retaining wall, the house foundation or the modified creek bank at a later date. The design and construction of the SCVWD wall shall be addressed with the slope stability analysis.

**PRIOR TO ISSUANCE OF A BUILDING PERMIT OR A GRADING AND EXCAVATION PERMIT**

7. **EASEMENTS:** The existing site plan shows an existing Santa Clara Valley Water District (SCVWD) easement. Plot and label the onsite existing and proposed easements on the Site Plan and Utility Plan. Submit a copy of the new recorded easement(s). The proposed easement shall be as directed by SCVWD, approximately 5-feet landward from the future flood wall. Note that structures are not allowed to be constructed over existing easements. As discussed with the District a portion of the proposed building may be allowed to overhang into the new SCVWD easement.

8. **GRADING PERMIT:** The site plan must include a table that shows the earthwork (cut and fill) volumes. If the total is more than 100 cubic yards, a grading permit will be required. An application and plans including Rough Grading and Shoring Plans are submitted to Public Works separately from the building permit plan set. The application and guidelines are available on our Public Works website.
9. **GRADING AND DRAINAGE PLAN:** The plan set must include a grading & drainage plan prepared by a licensed professional that includes existing and proposed spot elevations, earthwork volumes, finished floor elevations, garage finished floor elevation, crawl space pad elevation, base flood elevation, mechanical room elevation, pad for any utility equipment, area drain and bubpler locations, drainage flow arrows to demonstrate proper drainage of the site.

Clearly show that the outside adjacent grades are at or below the crawl space elevation on at least 1 side of house. Note that if the adjacent grades are above the crawl space on all four sides of the house, the crawl space would be considered a basement, which is not permitted. See Palo Alto Municipal Code Section 16.28 and *Grading & Drainage Guidelines for Residential Development* form for guidelines. [http://www.cityofpaloalto.org/civicax/filebank/documents/2717](http://www.cityofpaloalto.org/civicax/filebank/documents/2717)

Plot and label the downspout locations for the proposed structures to verify that runoff will not drain into the neighboring properties, including the creek. Adjacent grades must slope away from the building foundation at minimum of 2% or 5% for 10-feet per 2013 CBC Section 1804.3. Downspouts and splash blocks shall be shown on this plan, as well as any site drainage features such as swales. Grading that increases drainage onto, or blocks existing drainage from, neighboring properties will not be permitted. Public Works generally does not allow rainwater to be collected and discharged into the street gutter or connect directly to the City’s infrastructure, but encourages the developer to keep rainwater onsite as much as feasible by directing runoff to landscaped and other pervious areas of the site.

Based on the close proximity to the creek, provide a site specific storm water pollution prevention plan with the permanent erosion control measures needed to protect the creek and bank during the various seasons. Plan shall include any relevant notes or recommendations from the Geotechnical Engineer along with a schedule of the proposed work.

10. Place the following note on the Grading and Drainage Plan and/or Site Plan: “Contractor shall contact Public Works Engineering (PWE) Inspectors to inspect and accept the storm drain system (pipes, area drains, inlets, bubblers, dry wells, etc.) associated with the project prior to backfill. Contractor shall schedule an inspection at a minimum 48-hours in advance by calling (650)496-6929”.

11. Place the following note adjacent to an affected tree on the Site Plan and Demolition Plan: “Excavation activities associated with the installation of the driveway approach or utility connections shall occur no closer than 10-feet from the existing street tree, or as approved by the Urban Forestry Division contact 650-496-5953. Any changes shall be approved by the same”.

12. **SHORING:** Provide shoring plans for proposed house and pool construction. If shoring soldier piles are required they shall be located completely within the private property, clearly including tiebacks (if any). Tieback shall not extend onto adjacent private property or into the City’s right-of-way without having first obtained written permission from the private property owners and/or an encroachment permit from Public Works. The shoring plans shall clearly show the property line and the dimension between the outside edge of the soldier piles and the property line for City records.
13. DEWATERING: Excavation may require dewatering during construction. Public Works only allows groundwater drawdown well dewatering. Open pit groundwater dewatering is not allowed. **Dewatering is only allowed from April through October due to inadequate capacity in our storm drain system.** The geotechnical report for this site must list the highest anticipated groundwater level. We recommend that a piezometer be installed in the soil boring. The contractor shall determine the depth to groundwater immediately prior to excavation by using a piezometer or by drilling an exploratory hole if the deepest excavation will be within 3 feet of the highest anticipated groundwater level. If groundwater is found within 2 feet of the deepest excavation, a drawdown well dewatering system must be used, or alternatively, the contractor can excavate for the basement and hope not to hit groundwater, but if he does, he must immediately stop all work and install a drawdown well system before he continues to excavate. Based on the determined groundwater depth and season the contractor may be required to dewater the site or stop all grading and excavation work. In addition Public Works may require that all groundwater be tested for contaminants prior to initial discharge and at intervals during dewatering. If testing is required, the contractor must retain an independent testing firm to test the discharge water for contaminants Public Works specifies and submit the results to Public Works.

Public Works reviews and approves dewatering plans as part of a **Street Work Permit.** The applicant can include a dewatering plan in the building permit plan set in order to obtain approval of the plan during the building permit review, but the contractor will still be required to obtain a street work permit prior to dewatering. Alternatively, the applicant must include the above dewatering requirements in a note on the site plan. Public Works has a sample dewatering plan sheet and dewatering guidelines available on our website. [http://www.cityofpaloalto.org/gov/depts/pwd/forms_and_permits.asp](http://www.cityofpaloalto.org/gov/depts/pwd/forms_and_permits.asp)

The following links are included to assist the applicant with dewatering requirements.


14. RESIDENTIAL STORM WATER TREATMENT: This project triggers the California Regional Water Quality Control Board’s revised provision C.3 for storm water regulations (incorporated into the Palo Alto Municipal Code, Section 16.11) that apply to residential land development projects that create or replace between 2,500 and 10,000 square feet of impervious surface area. The applicant must implement one or more of the following site design measures:

- Direct roof runoff into cisterns or rain barrels for reuse.
- Direct roof runoff onto vegetated areas.
- Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas.
- Direct runoff from driveways and/or uncovered parking lots onto vegetated areas.
- Construct sidewalks, walkways, and/or patios with permeable surfaces.
- Construct driveways, and/or uncovered parking lots with permeable surfaces.

15. Applicant shall be aware that the project may trigger water line and meter upgrades or relocation, if upgrades or relocation are required, the building permit plan set shall plot and label utility changes. If a backflow preventer is required, it shall be located within private property and plotted on the plans.
16. WORK IN THE RIGHT-OF-WAY: The plan must note that any work in the right-of-way, including utility lateral replacement, must be done per Public Works’ standards by a licensed contractor who must first obtain a Street Work Permit from Public Works at the Development Center. In addition the following note shall be shown on the plans adjacent to the area on the Site Plan:

“Any construction within the city right-of-way must have an approved Permit for Construction in the Public Street prior to commencement of this work. THE PERFORMANCE OF THIS WORK IS NOT AUTHORIZED BY THE BUILDING PERMIT ISSUANCE BUT SHOWN ON THE BUILDING PERMIT FOR INFORMATION ONLY.”

17. SIDEWALK, CURB & GUTTER: As part of this project, the applicant shall replace those portions of the existing sidewalks, curbs, gutters or driveway approaches in the public right-of-way along the frontage(s) of the property. Contact Public Works’ inspector at 650-496-6929 to arrange a site visit so that the inspector can discuss the extent of replacement work along the public road. The site plan submitted with the building permit plan set must show the extent of the replacement work.

Any existing driveway to be abandoned may need to be replaced with rolled curb & gutter. This work must be included within a Permit for Construction in the Public Street from the Public Works Department. A note of this requirement shall be placed on the plans adjacent to the area on the Site Plan.

18. PAVEMENT: Add the following note to the Site Plan: “Applicant and contractor will be responsible for resurfacing portions of Palm Street based the roadway surface condition after project completion and limits of trench work. At a minimum pavement resurfacing along the project frontage may be required.”

19. Provide the following note on the Site Plan and Structural plans to indicate, “The proposed project is a Substantial Improvement and shall comply with Palo Alto Municipal Code Chapter 16.52 Flood Hazard Regulations and FEMA’s requirements.”

20. FLOOD ZONE: Add a note on the plans shall indicate that the Assessor’s Parcel 003-07-053 is located within FEMA’s Special Flood Hazard Area Zone A based on the FIRM Panel Number 06085C0010H dated May 18, 2009. Where the base flood elevation (BFE) is not determined, however the SCVWD water surface elevation for the 1% (100 year) creek flow was determined to be 42.3 NAVD. The finished floor elevation shall be at or above the SCVWD’s determined elevation.

21. FLOOD ZONE CONSTRUCTION MATERIALS AND METHODS: Add a note on the Structural, Architectural and Mechanical plans to indicate that all new construction and substantial improved structures shall be constructed with flood-resistant materials and utility equipment shall be resistant to flood damage as specified in FEMA’s technical bulletins and Palo Alto Municipal Code Section 16.52.130. b

22. FLOOD ZONE CERTIFICATION: An Elevation Certification shall be provided for all structure(s) and shall be prepared by a registered professional engineer or surveyor, and verified by a community official to be properly elevated. Such certification and verification shall be provided to the floodplain administrator based on PAMC section 16.52.130, and shall be prepared at 3 stages of construction:
with the construction documents, during construction, and prior to building permit final. The
elevation certificate prepared based on the existing structure and the proposed construction, shall
be scanned and attached with the building permit construction documents. Certificates shall be
prepared on the NAVD.

23. The “Survey Requirements for Construction in the Special Flood Hazard Area” shall be added to the
plan set. A pdf copy of the documents titled Plan Insert for Elevation Certification Requirements) is
available on the City’s website

24. FLOOD ZONE VENTS: All new construction and substantially improved structures, with fully enclosed
areas below the lowest floor which are useable solely for the parking of vehicles and building access,
and which are subject to flooding shall be designed to automatically equalize hydrostatic flood
forces on exterior walls by allowing for the entry and exit of floodwaters. This requirement shall
comply with the guidelines set on FEMA’s technical bulletins, including but not limited to TB1-08,
TB6-93 and TB7-93. See PAMC 16.52.130.c.3 for minimum criteria. Plot and label the vent openings
on the structural details. There must be at least two openings for each enclosed area with 1 sq in of
opening for each 1 sq ft of enclosed area. These openings must be placed no more than 12 inches
above lowest adjacent grade. Provide on the drawings the following:

- a schedule showing the areas enclosed;
- the area of each opening;
- the number of openings required;
- a detail showing the location of the vent relative to adjacent grade;
- and the location of the openings on the foundation plan.

These should also be incorporated into the structural drawings, since flood openings in the
foundation affect the structural engineer’s design. Guidelines for flood openings can be found in
FEMA Technical Bulletin 1-08, “Openings in Foundation Walls.”

25. STORMWATER POLLUTION PREVENTION – The plan set shall include the “Pollution Prevention – It’s
Part of the Plan” An electronic copy of this plan is available on the City’s website.
http://www.cityofpaloalto.org/civicax/filebank/documents/2732

26. IMPERVIOUS SURFACE AREA: The project will be creating or replacing 500 square feet or more of
impervious surface. Accordingly, the applicant shall provide calculations of the existing and
proposed impervious surface areas with the building permit application. The Impervious Area
Worksheet for Land Developments form and instructions are available at the Development Center or
on our website. To determine the impervious surface area that is being disturbed, provide the
quantity on the site plan.

PRIOR TO BUILDING PERMIT FINAL

27. Applicant may be required to obtain a final inspections or approval from the Water District for the
encroachment permit. Please submit a copy of the final inspections or approval from the District
and/or other agencies if applicable.

End of Conditions of Approval
STIPULATED AGREEMENT BETWEEN THE CITY OF PALO ALTO
AND DI-ANN EISNOR FOR TEMPORARY OCCUPANCY OF 419 PALM STREET

This Agreement is entered between the CITY OF PALO ALTO ("CITY"), a Chartered City and municipal corporation, whose address is P.O. Box 10250, Palo Alto, California 94301, and DI-ANN EISNOR ("OWNER") who is the owner of property located at 419 Palm Street, Palo Alto, California 94301. CITY and OWNER may be collectively referred to as "PARTIES".

RECITALS:

A. On September 2, 2016, the CITY approved the OWNER’s request for Individual Review (Application No. 14PLN-00410) to remove an existing residence and construct a new two-story single family residence at 419 Palm Street, Palo Alto, CA 94301 ("PROPERTY"). The City also adopted the MND for the proposed project and associated Mitigation Monitoring and Reporting Program (MMRP).

B. The Conditions of Approval outlined in the City’s approval letter as well as Mitigation Measures outlined in the MMRP included both short-term and long-term requirements for the protection of the creek and for recordation of an easement in favor of the Santa Clara Valley Water District (SCVWD) (the "Easement").

C. Although Planning Condition of Approval #8 required OWNER to record the easement prior to building permit issuance, the City permitted OWNER to obtain a building permit, provided that the easement would be recorded prior to building occupancy.

D. In April 2018 the OWNER requested changes to the proposed post-construction condition of the PROPERTY in areas adjacent the creek based on concerns that removal of the slab could affect the structural integrity of the remaining foundation within the creek bank. Specifically, the applicant proposes to leave the slab and associated retaining walls of the previously existing residence in place in-lieu of removing all concrete above the creek bank and conforming the upstream and downstream sides of the PROPERTY. The proposed revisions to the post-construction conditions of the site have further delayed recordation of the SCVWD easement.

E. The OWNER seeks temporary occupancy of the house while the OWNER addresses remaining conditions of approval that must be completed prior to final occupancy.

AGREEMENT

Now, therefore, in consideration of the Recitals and mutual promises made herein, the PARTIES agree as follows:

1. Temporary Occupancy. Temporary Occupancy shall be granted to the OWNER to occupy the residence located at 419 Palm Street under Building Permit No. 16000-02005 as of December __, 2018.

2. Erosion and Sedimentation Control. The OWNER agrees to maintain erosion and sedimentation control measures, including the installed jute netting and silt fencing, along the
creek bank to cover all exposed soils until such time as all permanent vegetation has been
installed in accordance with an approved Revegetation Plan.

3. **Revegetation Plan.** Prior to recordation of the Easement: the OWNER shall submit a
revised Revegetation Plan addressing the SCVWD and City’s comments for the City’s approval
in accordance with Mitigation Measure (MM) BIO-5.10. The OWNER shall implement the
approved Revegetation Plan prior to issuance of final occupancy for long-term erosion and
sediment control. Consistent with the requirements of MM BIO-5.10, the Revegetation Plan shall
include a monitoring component, which shall be implemented until the vegetation is fully
established.

4. **License for Inspection Access.** The OWNER hereby grants the CITY and SCVWD a
non-exclusive license to access to the PROPERTY during normal business hours in order to
periodically inspect the condition of the stream bank and to ensure that erosion and
sedimentation control measures continue to be maintained.

5. **Civil Engineer’s Approval of Revised Design.** Based on hydraulic modeling
completed by the SCVWD’s hydraulic engineering unit, the slab at the rear of the property will
be inundated when the flow in the creek is 2,900 cubic feet per second (this is around a four-year
event) or higher. The velocities in the creek are estimated to be between six and eight feet per
second. The OWNER agrees to hire a civil engineer to assess and confirm that the proposed
installation of rip-rap and willow, will withstand the anticipated flow and velocity of the creek
modeled by the SCVWD. The engineer shall use a higher velocity for design/evaluation in order
to incorporate a factor of safety for creek bank stability. If, in the engineer’s professional
opinion, the proposed rip-rap and willow is not sufficient to ensure the stability of the bank on
the downstream side of the slab, the engineer shall recommend alternative measures to ensure
stability of the bank, which shall be reviewed and approved by the City and SCVWD and
implemented by the property owner prior to recordation of the easement.

6. **Recordation of Easement.** As required in accordance with Condition of Approval #8,
the OWNER shall dedicate the Easement to the SCVWD and record it with the County. This
shall be completed prior to the City authorizing final occupancy of the site.

7. **Responsibility.** The applicant shall be solely responsible for all the improvements
installed along the creek bank including, but not limited to, maintenance of the revegetation,
repair and restoration of creek bank, any erosion or scouring along the creek bank at the
PROPERTY attributed to 1) the modifications made to the original house which was partially
removed, 2) the condition of the remaining foundation of the original house, 3) the stitch pier
wall and all other improvements and site modifications made by the owner of the PROPERTY,
4) landscape and irrigation improvements, which could lead to creek bank instability.

8. **Penalties.** OWNER hereby acknowledges and agrees:
   a. If the event OWNER fails to comply with any of its obligations under
   this Agreement within the timeframe granted by the Chief Building
   Official for temporary occupancy, the CITY may revoke the
   Temporary Occupancy granted herein and require that the building be
   vacated in accordance with Chapter 16.04 of the Palo Alto Municipal
   Code.
   b. OWNER’s failure to comply with its obligations under this
   Agreement also constitute a violation of the project conditions of
   approval, for which CITY may issue administrative citations under
   Chapters 1.12 and 18.01 of the Palo Alto Municipal Code. Each
   instance and each day of non-compliance constitutes a separate
   violation; pursuant to CITY’s administrative penalty schedule, citation
   penalties begin at $500 and may increase to $1,000 per violation per
day.
   c. CITY has afforded OWNER a reasonable amount of time to comply
   with the conditions of approval and the obligations contained herein,
   and no additional time to correct a violation is required under the Palo
9. **Indemnity.** To the fullest extent permitted by law, OWNER shall protect, indemnify, defend, and hold harmless CITY, it's Council members, officers, employees, and agents, and SCVWD (each an “Indemnified Party”) from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage, or any other loss, including all costs and expenses of whatever nature including attorneys fees, experts fees, court costs, and disbursements (“Claims”) resulting from, arising out of; or in any manner related to CITY's grant of temporary occupancy or the performance or non-performance by OWNER and its agents of OWNER's obligations under this Agreement, regardless of whether it was caused in part by an Indemnified Party. Notwithstanding the above, nothing in this Section 9 shall be construed to require OWNER to indemnify an Indemnified Party from Claims arising from the active negligence, sole negligence, or willful misconduct of an Indemnified Party.

10. **Binding on Successors.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of OWNER.

11. **Entire Agreement.** This Agreement sets forth the entire agreement between the PARTIES and supersedes any and all prior agreements and understandings, written or oral, between the PARTIES pertaining to the subject matter contained herein. Amendments to the conditions set forth in this Agreement shall be in writing and signed by OWNER and CITY.

12. **Representations and Statements.** CITY and OWNER represent and acknowledge that in executing this Agreement, they do not rely, and have not relied, upon any representation or statement made by any of the PARTIES or any of the PARTIES' agents, attorneys, or representatives with regard to the subject matter, basis or effect of this Agreement other than those specifically stated in this written Agreement. CITY and OWNER have reviewed and revised, or had the opportunity to revise this Agreement; and accordingly the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party is not applicable and therefore shall not be employed in the interpretation of this Agreement or any amendment of it. CITY and OWNER further represent and warrant that, other than actions referred to in the Recitals, neither has taken any action, or commenced any proceeding against the other in any administrative or judicial action of any sort.

13. **Preservation of Agreement.** Should any provision of this Agreement be found invalid or unenforceable by a court of competent jurisdiction, the legality and enforceability of the remaining provisions shall not be affected and the illegal or unenforceable provision shall not be considered part of this Agreement.

14. **Authority to Execute.** The persons executing this Agreement on behalf of the PARTIES warrant that they are duly authorized to execute this Agreement and to bind the party on whose behalf he or she is signing.

15. **Effective Date.** This Agreement shall become effective immediately once the PARTIES have signed it.

The PARTIES, having read all the foregoing, having been duly advised by counsel, and having fully understood and agreed to the terms and conditions of this Agreement, execute this Agreement by signing below.

CITY OF PALO ALTO

OWNER
By: 
City Manager

Dated: 

APPROVED AS TO FORM:

By: 
Albert S. Yang
Deputy City Attorney

Dated: 12/20/18
Title: Approval of a Purchase Order With National Auto Fleet Group in an Amount Not to Exceed $377,826 for the Purchase of a 2023 Chevrolet G4500 Type III Ambulance, Utilizing a Cooperative Purchase Agreement

From: City Manager

Lead Department: Public Works

Recommendation
Staff recommends that the City Council approve and authorize the City Manager or their designee to execute a purchase order with National Auto Fleet Group in an amount not to exceed $377,826, which includes an approximate 5% contingency in the amount of $18,000 for unforeseen price increases, for the purchase of a 2023 Chevrolet G4500 Type III Ambulance utilizing a cooperative purchase agreement via Sourcewell, a cooperative purchasing agency serving government and not-for-profit organizations.

Background
The Vehicle and Equipment Use, Maintenance, and Replacement policy section 4-1 provides for the on-going replacement of City fleet vehicles and equipment. Replacements are scheduled using guidelines based on age, mileage accumulation, and obsolescence. Policy 4-1 prescribes a replacement interval for ambulances of five years or 85,000 miles.

The City’s ambulance fleet currently includes six ambulances. The Fire Department operates three full-time ambulances at Fire Stations 1, 2, and 4 and supports them with three reserve ambulances at the same locations. This minimizes the downtime when a frontline ambulance needs repair or regular scheduled maintenance. It also allows the department to upstaff any of the three reserve ambulances for special events.

Discussion
The ambulance due for replacement (unit 6047) is over nine years old (purchased in 2013), and has over 85,000 miles. It has reached the end of its usable life. As mileage increases with this unit, the repair frequency increases along with increased unit down time. The reliability of first line ambulances is paramount due to their daily emergency use. If this unit is not replaced, the emergency response model may suffer as a result of extended downtime for repairs. The goal of the Palo Alto Fire Department (PAFD) is to capture 100% of the ambulance responses in Palo Alto, rather than requiring a company from outside the City to respond to these emergencies.
Replacing this ambulance helps keep more apparatus in service and as reliable as possible to meet this goal.

Staff expects that it will take 12 to 16 months to procure and fully outfit the new ambulance before it can be placed into service. This ambulance will come equipped with the latest “auto-loading” patient gurney system. Currently, only two of the six ambulances are outfitted with this system. Adding this new ambulance to the fleet will ensure that the most frequently used frontline ambulances have the safest and most efficient equipment available. Further, the auto-loading gurney system has been proven to reduce injury within the PAFD and the industry as a whole.

**Procurement Process**

Section 2.30.360 (j) of the Palo Alto Municipal Code allows the use of cooperative purchasing agreements in lieu of conducting a competitive solicitation. Bids (quotes) for this purchase were obtained through Sourcewell (formerly known as the National Joint Powers Alliance), which is a cooperative purchasing agency serving governmental, higher education, K-12 education, not-for-profit, tribal government, and other public agencies. Sourcewell conducted a Request for Proposals under which the National Auto Fleet Group was an awarded vendor.

To participate under the cooperative agreement, the City sent a Request for Quotation to Sourcewell on June 28, 2022, and a quote was received from National Auto Fleet Group on August 18, 2022.

Staff recommends that the City Council approve a purchase order with National Auto Fleet Group (Attachment A) for the 2023 Chevy G4500 Type III ambulance described in this report via the cooperative purchase agreement with Sourcewell. The purchase order version provided in Attachment A has been reduced for printing purposes and is not the full contract with all exhibits.¹

**Resource Impact**

Funding to replace this ambulance has been collected over the life of the vehicle through the annual Vehicle Replacement allocated charge to the Fire Department. The funding for this replacement was approved as part of the FY 2023 Adopted Capital Budget and available in the Fiscal Year 2023 Scheduled Vehicle and Equipment Replacement Capital Improvement Program project (VR-23000).

**Stakeholder Engagement**

Requests for vehicle replacements are presented to the Fleet Review Committee (FRC) for approval. FRC approved the replacement of this vehicle through the scheduled five-year replacement review as part of the development of the FY 2023 Capital Budget.

---

Policy Implications
Authorization of the contract does not represent any change to existing policies.

Environmental Review
Council action on this item is not a project as defined by CEQA because the purchase of a new fleet vehicle is a continuing administrative or maintenance activity. CEQA Guidelines section 15378(b)(2).

Attachments:
- Attachment7.a: Attachment A - PO 4523000147 NAFG
This City of Palo Alto (City) Purchase Order agreement (PO) with 72 Hour LLC dba National Auto Fleet Group is made pursuant and subject to Sourcewell Contract #091521-NAF for the procurement of the equipment detailed in this PO.

This PO is governed by California law without regard to conflict of law principles. The venue for any dispute under this PO is Santa Clara County, California.

This PO hereby attaches and incorporates the following contract documents into this PO by reference as though fully set forth herein:

1. Sourcewell Contract No. 091521-NAF
3. National Auto Fleet Group Quote No. 30573NC R1, Dated 08/18/2022 (including pricing and specifications)
4. City of Palo Alto Purchase Order Terms and Conditions for Goods

<table>
<thead>
<tr>
<th>Item</th>
<th>Material/Description</th>
<th>Quantity</th>
<th>UM</th>
<th>Net Price</th>
<th>Net Amount</th>
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<td>Chevy Ambulance</td>
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Purchase one(1) new/unused 2023 Chevy Express G4500

DELIVERIES ACCEPTED ONLY BETWEEN 7:00 AM & 3:00 PM UNLESS OTHER ARRANGEMENTS ARE INDICATED HEREIN

Interim Chief Procurement Officer

Packet Pg. 83
**Delivery 18 months upon receipt of PO**

**TOTAL:** $359,825.07 = 328,809 (veh+keys) + 12.25 tire fee + 1,000 delivery + $30,003.82 sales tax (9.125%)

**new unit 6053 (replaces 6047) FIRE**

**New/Unused 2023 Chevrolet Express G4500 159" Cutaway with Leader Type II LE Base Conversion, 1 each, vehicle and Total Amount w/ CA tax and Tire fee is $359,825.07.**

<table>
<thead>
<tr>
<th>Item</th>
<th>Material/Description</th>
<th>Quantity</th>
<th>UM</th>
<th>Net Price</th>
<th>Net Amount</th>
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<tr>
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<td>USD</td>
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</tr>
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</table>

**FLEET MANAGER: Danitra Bahlman 650-496-5920**

**Danie.Bahlman@cityofpaloalto.org**

**SEND INVOICE TO: EQUIPMENT MANAGEMENT**

---

**Total 359,825.07**
ACCEPTANCE/AGREEMENT: City of Palo Alto (City) reserves the right to reject any and all quotations, to waive any informalities, and, unless otherwise specified by Seller, to accept any item in a quotation. By accepting or filing this Purchase Order (P.O.), Seller agrees to the terms and conditions herein which shall prevail over any inconsistent provision in any form or other paper submitted by Seller. All shipments or services performed shall be deemed to have been made pursuant hereto. No other terms are acceptable. This P.O., including all specifications and drawings, shall constitute the entire agreement between the parties unless modified in writing by City.

CITY’S PROPERTY: Seller agrees that the information, tools, jigs, dies, or materials, and drawings, patterns, and specification supplied or paid for by City shall be and remain City property and shall be held by Seller for City unless directed otherwise. Seller shall account for such items and keep them protected, insured, and in good working conditions without expense to City.

DELIVERY: The terms of delivery are as stated on the reverse side hereof. The obligation of Seller to meet the delivery dates, specifications, and quantities set forth herein is of the essence of this P.O. No boxing, packing, or cartage charge will be allowed unless authorized by this P.O. Deliveries are to be made both in quantities and at times specified herein or, if not, such quantities and times are specified pursuant to City’s written instruction. Items not delivered may be canceled without penalty to City. Shipments in greater or lesser quantity than ordered may be returned at Seller’s expense unless written authorization is issued by City.

PRICES: The price which Seller charges in filling this P.O. shall not be higher than Seller’s most recent quote or charge to City for such materials, supplies, services and/or installations unless City expressly agrees otherwise in writing. Notwithstanding the prices set forth the P.O. City shall receive the benefit of any general reduction in the price of any item(s) listed herein which may be made by Seller at any time prior to the last delivery of goods or services covered by this P.O.

TERMINATION: City shall have the right to terminate this P.O. or any part thereof upon ten (10) days notice in writing to Seller.

(1) Without Cause. City may terminate all or any part of this P.O. without cause. Any claim by Seller for damages due to termination without cause must be submitted to City within thirty (30) days after effective date of termination.

(2) For Cause. If Seller fails to make any delivery in accordance with the agreed delivery dates, schedules, or otherwise fails to observe or comply with any of the other terms, conditions, or warranties applicable to this P.O. City may, in addition to any other right or remedy provided by this P.O. or by law, terminate all or any part of this P.O. in writing without any liability of City with respect to Seller at any time during the term of this P.O. In the event of termination for cause, City may purchase supplies or services elsewhere on such terms or in such manner as City may deem appropriate and Seller shall be liable to City for any cost and other expenses incurred by City, which is charged to City.

CHANGES: City shall have the right at any time by written notice via P.O. Change Order to Seller to make changes in the specifications, the quantity of items called for, delivery schedules, and requirements covering testing, packaging, or destination. Any claim by Seller for adjustment under this clause shall be deemed waived unless made in writing with then (10) days after receipt by Seller of notice of such change. Price increases or extensions of time for delivery shall not be binding on City unless evidenced by a P.O. Change Order issued by City’s Purchasing Manager.

INSPECTION: City shall have the right to inspect and approve or reject any materials, supplies, services and/or installations upon arrival of notice of completion prior to payment without regard to the manner of shipment, completion, or any shipping or price terms contained in this P.O. All materials, supplies, services and/or installations must be furnished as specified.

(1) Defective, damaged, and nonconforming materials and/or supplies may be returned for credit or refund, at Seller’s expense. City may charge Seller for all expenses of unpacking, examining, repacking and reshipping of such materials and/or supplies.

(2) Defective, incorrect and nonconforming services and/or installations may be returned for credit or refund, at Seller’s expense. All of the above notwithstanding prior payment by City.

(3) City may waive defects that exist.

WARRANTY: Seller expressly warrants that all materials, supplies, services and/or installations covered by this P.O. shall:

(1) conform to the specifications, drawings, samples, or other descriptions specified by City or if none are so specified, to Seller’s standard specification or the standards of the ASTM or ANSI or other national standard organizations;

(2) be new and unless specified to the contrary on the face hereof, will be free from defects in material and workmanship and will be free of all liens and encumbrances and will conform to any affirmation of facts made on the container or label;

(3) be adequately contained, packaged, marked, labeled and/or provided in compliance with all applicable federal and state laws and regulations (including materials deemed hazardous);

(4) be performed within the rules and regulations of the Occupational Safety and Health Act of 1970 (as amended);

(5) be produced or transferred or disposed of as required by federal and state laws and regulations under the conditions of the Toxic Substances Control Act; the Hazardous Materials Control and Hazardous Waste Regulations; and other toxic laws and programs.

Seller further expressly agrees to protect, indemnify, and hold harmless City, its employees and agents for any loss, damage, fine, liability, fee (including reasonable charges and fees) or expense arising in connection with or resulting from Seller’s failure to furnish materials or supplies or perform services that conform with any warranty contained herein.

(6) have good marketable title.

GOVERNING LAW: This P.O. shall be governed by the laws of the State of California.

INDEPENDENT CONTRACTOR, INSURANCE: Seller certifies, by acceptance, that he/she is an independent contractor. Seller shall protect, defend, and indemnify and hold City harmless against all damages, liability, claims, losses and expenses (including attorney’s fees) arising out of, or resulting in any way from Seller’s negligence, or in providing the goods or services purchased hereunder or from any act or omission of Seller, its agents, employees, or subcontractors. Seller shall maintain such public liability insurance, including contractual liability, automobile and general public liability, (including non-owned automobile liability) Worker’s Compensation, and employer’s liability insurance as well as adequately protect City against such damage, liabilities, claims, losses, and expenses (including attorney’s fees). Seller agrees to submit certificates of insurance, evidencing its insurance coverage when requested by City.

EQUAL OPPORTUNITY CLAUSE: By acceptance of this P.O., Seller certifies it is in compliance with the Equal Opportunity Clause required by Executive Order 11246, as amended, and the Palo Alto Municipal Code, as amended, including Affirmative Action Compliance Programs for Veterans; Handicapped; and Minority Business, and other equal opportunity programs.

FORCE MAJEURE: City may delay delivery or acceptance occasioned by causes beyond its control. Seller shall hold such materials, supplies, services and/or installations at the direction of City and shall deliver them when the cause affecting the delay has been removed. City shall be responsible only for Seller’s direct additional costs in holding the goods or delaying performance of this P.O. and City’s request. Seller shall also be excused if delivery is delayed by unforeseen events beyond its reasonable control, provided Seller notifies City as soon as they occur. City may cancel this P.O. if such delay exceeds thirty (30) days from the original delivery date. Seller shall use its best efforts to grant preference to this P.O. over those of other customers, which were placed after this P.O.

AUTHORITY OF AGENT OR FACTOR: Seller represents that, whenever it executes this P.O. on behalf of a third party as an agent or factor, it shall disclose the existence of the agency or factor relationship to City. Seller shall be deemed to have the legal authority to enter into this P.O. with City on behalf of the third party.

INTERPRETATION OF CONTRACT DOCUMENTS: In the event of a conflict between the terms of this P.O. and the attached specification with respect to any obligation of Seller, the provision which impose the greater obligations upon Seller shall prevail.
EVENMENTALLY PREFERRED PURCHASING REQUIREMENTS: Seller agrees to comply with the City’s Environmentally Preferred Purchasing Requirements.

(1) Hazardous Waste:
Seller shall take-back all spent or otherwise discarded hazardous products sold to the City by the Seller if the spent or discarded products are classified as hazardous or universal wastes by State or Federal regulations. Seller shall provide convenient collection and recycling services (or disposal services if recycling technology is unavailable) for all universal wastes, which originate from the Vendor. Hazardous waste manifests or bills of lading must be provided to City staff upon request. Recycling and reuse of hazardous wastes must occur within the United States. Universal waste lists and information are available at www.dtsc.ca.gov/HazardousWaste/UniversalWaste/. A hazardous waste list is available at http://www.calrecycle.ca.gov/LEA/Training/wasteclass/yep.htm. Additional information can be obtained by contacting the City of Palo Alto Hazardous Waste Department at (650) 496-6980.

(2) Zero Waste and Pollution Prevention:
Per Palo Alto City Council policy, the City is targeting to achieve Zero Waste by 2021. The City must also meet Municipal Regional Stormwater Permit requirements requiring no visible impact from litter via stormdrains by 2022. To that end the vendor, manufacturer and or contractor must individually or collaboratively comply with the waste reduction, reuse and recycling requirements of the City’s Zero Waste and Pollution Prevention Programs. Seller acknowledges and agrees that if Seller fails to fully and satisfactorily comply with these requirements, the City will suffer, as a result of Seller’s failure, substantial damages which are both extremely difficult and impracticable to ascertain. Therefore, the Seller agrees that in addition to all other damages to which the City may be entitled, in the event Seller fails to comply with the below requirements Seller shall pay City as liquidated damages the amounts specified below. The liquidated damage amount is not a penalty but considered to be a reasonable estimate of the amount of damages City will suffer as a result of such non-compliance.

- Sellers shall adhere to the standard that all printed materials provided to the City that are generated from a personal computer and printer including, proposals, quotes, invoices, reports, and public education materials shall be double-sided, printed on a minimum of 30% post-consumer content paper or greater unless otherwise approved by the City’s Environmental Services Division (650) 329-2117. Materials printed by a professional printing company shall be a minimum of 30% post-consumer material or greater and printed with vegetable based inks. Liquidated damages of $30 per document will be assessed by City for failure to adhere to this requirement;
- All paper packaging must be Forest Stewardship Council (FSC) Certified.
- All primary, secondary and shipping (tertiary) packaging be minimized to the maximum extent feasible while protecting the product being shipped;
- All primary, secondary and shipping packaging shall be recyclable in the City’s recycling program. A complete list of items accepted for recycling are found at www.zerowastepaloalto.org or by calling (650) 496-5910. If any portion is received that does not meet this requirement, liquidated damages of $235 or a minimum of $50 if the combined product and shipping cost is $235 or less will be assessed by City for failure to adhere to this requirement.
- Expanded foam plastics (e.g., foam or cushion blocks, trays, packing "peanuts"), such as but not limited to polystyrene (aka Styrofoam™), polypropylene, or polyurethane shall not be used as primary, secondary or tertiary/shipping packaging with the following exceptions:
  - Primary packaging made from these materials may be used if the vendor, manufacturer, contractor individually or collaboratively does one of the following:
    - takes the material back at the City’s convenience and at no cost to the City, or
    - pays the City of Palo Alto’s disposal costs via payment of liquidated damages of $235, or a minimum of $50 if the combined product and shipping cost is $235 or less.
  - Bioplastics that meet ASTM D6400 standards for compostability may be accepted with approval from the City’s Environmental Services Division subject to local municipal compost facility requirements;
  - if approved by the City’s Environmental Services Division, a packaging requirement may be waived if no other viable packaging alternative exists;

- Reusable/returnable pallets shall be used and taken back by the Seller, at no additional cost to the City. Seller shall provide documentation upon request ensuring reuse of pallets and/or recycling of broken pallets. Liquidated damages of $262 or a minimum of $50 if the combined product and shipping cost is $262 or less will be assessed by City for failure to adhere to this requirement.

(3) Energy and Water Efficiency:
Seller shall provide products with an ENERGY STAR, WaterSense or State of California standard rating, whichever is more efficient, when ratings exist for those products. A life cycle cost analysis shall be provided to the City upon request and shall at minimum include: first cost, operating costs, maintenance costs, and disposal costs.

Contacts for additional information about City of Palo Alto Hazardous Waste, Zero Waste and Utilities programs:
- Hazardous Waste Program (Public Works)
  (650) 496-6080
- Zero Waste Program (Public Works)
  (650) 496-5910
- Watershed Protection
  (650) 329-2117
- Energy Efficiency
  (650) 496-2244

(4) Liquidated Damages:
Seller agrees that failure to comply with the City’s Environmentally Preferred Purchasing Requirements will result in Liquidated Damages, according to the table marked Liquidated Damages on page 3 of this P.O.
NONCOMPLIANCE WITH ENVIRONMENTALLY PREFERRED PURCHASING REQUIREMENTS, LIQUIDATED DAMAGES:
The following table lists the events that constitute breaches of the Agreement’s standard of performance warranting the imposition of liquidated damages; the acceptable performance level, and the amount of liquidated damages for failure to meet the contractually required standards of performance.

<table>
<thead>
<tr>
<th>Event of Non-Performance</th>
<th>Acceptable Performance Level (Allowed events per Fiscal Year)</th>
<th>Liquidated Damage Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recycled Paper Use</td>
<td>Failure to use 30% recycled content paper 1</td>
<td>$30 per each document</td>
</tr>
<tr>
<td>Recyclable Packaging Materials</td>
<td>Failure of Seller to Use secondary and shipping packaging that is recyclable in the City’s recycling program.</td>
<td>1</td>
</tr>
<tr>
<td>Expanded Foam Plastics</td>
<td>Unapproved use of expanded foam plastics for secondary or shipping packaging 0</td>
<td>$235 or a minimum of $50 if the combined product and shipping cost is $235 or less</td>
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<tr>
<td>Pallet use</td>
<td>Failure of Seller to take-back and reuse pallets, recycling only broken pallets, at no additional cost to the City. 1</td>
<td>$262 or a minimum of $50 if the combined product and shipping cost is $2 or less</td>
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City of Palo Alto
City Council Staff Report

Meeting Date: 11/28/2022
Report Type: Consent Calendar

Title: Approval of a Purchase Order with Golden State Fire Apparatus in an Amount Not to Exceed $1,168,875 for the Purchase of a 2022 Pierce Enforcer Heavy Duty Rescue, Utilizing a Cooperative Purchase Agreement

From: City Manager

Lead Department: Public Works

Recommendation
Staff recommends that the City Council approve and authorize the City Manager or their designee to execute a purchase order with Golden State Fire Apparatus, Inc., in an amount not to exceed $1,168,875, which includes an approximate 5% contingency in the amount of $56,000 for unforeseen price increases for the purchase of a 2024/2025 Pierce Enforcer Heavy Duty Rescue Fire Truck, utilizing a cooperative purchase agreement via Sourcewell, a cooperative purchasing agency serving government and not-for-profit organizations.

Background
The Vehicle and Equipment Use, Maintenance, and Replacement Policy section 4-01 provides for the on-going replacement of City fleet vehicles and equipment. Replacements are scheduled using guidelines based on age, mileage accumulation, and obsolescence. The policy prescribes a replacement interval for Class 13 Fire Apparatus of twenty (20) years or 85,000 miles. Replacement of this unit was programmed in the Fiscal Year 2023 Scheduled Vehicle and Equipment Replacement Capital Improvement Program project (VR-23000).

This rescue unit is the only unit of its kind within the Palo Alto Fire Department’s fleet and serves numerous functions that no other apparatus in the fleet can provide. This includes but is not limited to:

- Refilling self-contained breathing apparatus (SCBA) bottles on structure fires and hazardous materials incidents with its on-board breathing air compressor unit.
- Providing scene lighting – the apparatus has large telescoping tower lights to illuminate emergency scenes at night, creating a safer work environment for firefighters. In addition, the unit has been a resource by the police department for significant investigations that require scene lighting after hours and throughout the night.
- Providing portable electrical power – the apparatus has a large on-board electrical generator that has the capability to provide 110v power on emergency scenes for various specialized tools and equipment.
• **Hydraulic “jaws of life” tools** – this is the only apparatus that carries secondary hydraulic power tools other than the aerial ladder truck. Carrying these tools allows for a backup of resources to the aerial ladder truck’s capabilities and is also a necessity for car crashes involving entrapments requiring multiple vehicle extrications.

• This unit is part of the Santa Clara County mutual aid callout system for all second alarm and larger incidents to provide SCBA air bottle refilling and scene lighting. It is one of three in the County and provides all support for the north county.

**Discussion**

Staff recommends replacing a 2005 KME BS66 Air, Light and Power Rescue Truck (unit 6123) with over 23,000 miles and lifetime maintenance and operation costs exceeding $125,000. The unit in service is now almost 18 years old and shows signs of significant wear internally and externally. Once a new unit is ordered, delivery of the unit is expected to take approximately two years. The new heavy duty rescue will benefit the community’s all risk emergency needs by providing firefighters with current safety features, and emissions compliance and putting in service a more reliable and readily available apparatus.

The current 2005 unit frequency of breakdowns has increased in the past 12-18 months and the exhaust system smokes due to the engine hours on the drivetrain. The department will face increased inoperable time of this 2005 unit due to needed repairs. When a unit is out of service for repairs and maintenance, this may result in longer response times and lost unit productive time. Since this unit serves as part of the Santa Clara County mutual aid callout system, the Fire Department may not be able to hold up its obligation in supporting the mutual aid system as the north county support unit as noted above. Approval for replacement was based on:

• An examination of the vehicle’s current usage

• Changes in the Fire Department’s deployment of resources now utilizes this apparatus full time as a frontline resource responding to a wide variety of incidents including medical calls.

• The existing unit will reach the 20-year replacement cycle by the time a new unit is ready for daily operation. The 20-year replacement criterion will continue to be trigger for replacement before it reaches the 85,000 mile threshold.

The City Fleet must also comply with many state and federal regulations. The proposed replacement will comply with 2024/2025 California Air Resources Board standards and will reduce carbon emissions.

**Bid Process**

Palo Alto Municipal Code section 2.30.360 (j) allows the use of cooperative purchasing agreements in lieu of conducting a competitive solicitation. Golden State Fire Apparatus, Inc., was awarded a contract by Sourcewell a cooperative purchasing agency serving governmental, higher education, K-12 education, not-for-profit, tribal government, and other public agencies.
Sourcewell conducted a Request for Proposals under which Golden State Fire Apparatus, Inc., was an awarded vendor. To participate under the cooperative agreement, a Request for Quotation was sent to Sourcewell, and staff received a quote from Golden State Fire Apparatus, Inc., on September 30, 2022.

Two payment options were provided by Golden State Fire Apparatus, Inc.
1. Payment Option A - 100% pre-payment for an amount of $1,112,874.85
2. Payment Option B - Payment upon delivery of unit for an amount of $1,168,528.62

Staff recommends approval of the purchase order (Attachment A), with Payment Option A, 100% pre-payment at issuance of PO for a savings of over $55,000 (when factoring in sales tax). The purchase order version provided in Attachment A has been reduced for printing purposes and is not the full contract with all exhibits.¹

**Resource Impact**
Funding to replace this unit has been collected over the life of the vehicle through the annual Vehicle Replacement allocated charge to the Fire Department. The funding for this replacement is available in the Fiscal Year 2023 Scheduled Vehicle and Equipment Replacement Capital Improvement Program project (VR-23000).

**Stakeholder Engagement**
Requests for vehicle replacements are presented to the Fleet Review Committee (FRC) for approval. FRC approved the replacement of this vehicle through the scheduled five-year replacement review as part of the development of the FY 2023 Budget.

**Policy Implications**
Authorization of the purchase order does not represent any change to the existing policy.

**Environmental Review**
Council action on this item is not a project as defined by CEQA because the purchase of a new fleet vehicle is a continuing administrative or maintenance activity. CEQA Guidelines section 15378(b)(2).

**Attachments:**
- **Attachment8.a:** Attachment A - PO 4523000184 Golden State Fire Apparatus

ATTN: RICH MYERS

This City of Palo Alto (City) Purchase Order agreement (PO) with Golden State Fire Apparatus, Inc. is made pursuant and subject to Sourcewell Contract No. 113021-CSM with Golden State Fire Apparatus, Inc. for the procurement of the equipment detailed in this PO.

This PO is governed by California law without regard to conflict of law principles. The venue for any dispute under this PO is Santa Clara County, California.

This PO hereby attaches and incorporates the following contract documents into this PO by reference as though fully set forth herein:

1. Sourcewell Contract No. 113021-CSM
2. Sourcewell Pricing for Contract No. 113021-CSM
3. Sourcewell Golden State Fire Apparatus Proposal. 41101-22B(including pricing and specifications)
5. City Of Palo Alto Terms and Conditions for Goods

Item | Material/Description | Quantity | UM  | Net Price | Net Amount |
--- | --- | --- | --- | --- | --- |
0010 | Pierce Hvy Duty Rescue | 1,019,807 | USD | 1.00 | 1,019,806.97

Pierce one(1) new Pierce Enforcer Heavy Duty Rescue for FIRE
Sourcewell Contract 113021 product ID #211 Proposal #: 41101-22B dated 11/1/22

---

Interim Chief Procurement Officer

THIS P.O. IS SUBJECT TO THE TERMS AND CONDITIONS STATED BELOW AND ON THE LAST PAGE

SPECIFICATIONS - Any specification and/or drawings referred to and/or attached here to are expressly made a part of this Purchase Order.

DELIVERY - Please notify the City promptly if delivery cannot be made on or before the date specified. If partial shipment is authorized, so indicate on all documents. Complete packing lists must accompany each shipment.

INVOICE - A separate invoice is required for each order. Send to address indicated above.
**Vendor Address**

GOLDEN STATE FIRE APPARATUS, INC  
7400 Reese Road  
SACRAMENTO CA 95828  
Tel: 916-330-1638

---

**P.O. NUMBER MUST APPEAR ON ALL INVOICES, PACKAGES, SHIPPING PAPERS AND CORRESPONDENCE PERTAINING TO THIS ORDER**

<table>
<thead>
<tr>
<th>PO Number</th>
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</tr>
<tr>
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<tr>
<td>Payment Terms</td>
<td>Payable immediately</td>
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<tr>
<td>FOB Point</td>
<td>F.O.B Destination</td>
</tr>
<tr>
<td>Ship via</td>
<td>Vendor to ship best method</td>
</tr>
<tr>
<td>Required Date</td>
<td>11/01/2024</td>
</tr>
<tr>
<td>Buyer/Phone</td>
<td>Saira Cardoza / 650-329-2327</td>
</tr>
<tr>
<td>Email</td>
<td><a href="mailto:Saira.Cardoza@CityofPaloAlto.org">Saira.Cardoza@CityofPaloAlto.org</a></td>
</tr>
</tbody>
</table>

**DELIVERIES ACCEPTED ONLY BETWEEN 7:00 AM & 3:00 PM UNLESS OTHER ARRANGEMENTS ARE INDICATED HEREIN**

---

**Item**

<table>
<thead>
<tr>
<th>Material/Description</th>
<th>Quantity</th>
<th>UM</th>
<th>Net Price</th>
<th>Net Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delivery 24 months upon receipt of PO</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL: $1,112,874.86 = 1,019,806.97(1,070,806.98 - 51,000.01 full pre-pay disc) + 10.50 tire fee + $93,057.39 sales tax (9.125%) new unit 6129 (replaces 6123) FIRE</td>
<td></td>
<td></td>
<td></td>
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</tr>
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<td>tire fee</td>
<td>11</td>
<td>USD</td>
<td>1.00</td>
<td>10.50</td>
</tr>
</tbody>
</table>

**Vendor shall handle DMV registration**

**FLEET MANAGER: Danitra Bahlman 650-496-5920**

Danitra.Bahlman@cityofpaloalto.org

**SEND INVOICE TO: EQUIPMENT MANAGEMENT**

---

**Interim Chief Procurement Officer**

*THIS P.O. IS SUBJECT TO THE TERMS AND CONDITIONS STATED BELOW AND ON THE LAST PAGE*

**SPECIFICATIONS** - Any specification and/or drawings referred to and/or attached hereto are expressly made a part of this Purchase Order.

**DELIVERY** - Please notify the City promptly if delivery cannot be made on or before the date specified. If partial shipment is authorized, so indicate on all documents. Complete packing lists must accompany each shipment.

**INVOICE** - A separate invoice is required for each order. Send to address indicated above.
TERMS AND CONDITIONS OF PURCHASE

ACCEPTANCE/AGREEMENT: City of Palo Alto (City) reserves the right to reject any and all quotations, to waive any informalities, and, unless otherwise specified by Seller, to accept any item in a quotation. By accepting or filing this Purchase Order (P.O.), Seller agrees to the terms and conditions herein which shall prevail over any inconsistent provision in any form or other paper submitted by Seller. All shipments or services performed shall be deemed to have been made pursuant hereto. No other terms are acceptable. This P.O., including all specifications and drawings, shall constitute the entire agreement between the parties unless modified in writing by City.

CITY’S PROPERTY: Seller agrees that the information, tools, jigs, dies, or materials, and drawings, patterns, and specification supplied or paid for by City shall be and remain City property and shall be held by Seller for City unless directed otherwise. Seller shall account for such items and keep them protected, insured, and in good working conditions without expense to City.

DELIVERY: The terms of delivery are as stated on the reverse side hereof. The obligation of Seller to meet the delivery dates, specifications, and quantities set forth herein is of the essence of this P.O. No boxing, packing, or cartage charge will be allowed unless authorized by this P.O. Deliveries are to be made both in quantities and at times specified herein or, if not, such quantities and times are specified pursuant to City’s written instruction. Items not delivered may be canceled without penalty to City. Shipments in greater or lesser quantity that ordered may be returned at Seller’s expense unless written authorization is issued by City.

PRICES: The price which Seller charges in filling this P.O. shall not be higher than Seller’s most recent quote or charge to City for such materials, supplies, services, and/or installations unless City expressly agrees otherwise in writing. Notwithstanding the prices set forth the P.O. City shall receive the benefit of any general reduction in the price of any item(s) listed herein which may be made by Seller at any time prior to the last delivery of goods or services covered by this P.O.

TERMINATION: City shall have the right to terminate this P.O. or any part thereof upon ten (10) days notice in writing to Seller.

1. Without Cause, City may terminate all or any part of this P.O. without cause. Any claim by Seller for damages due to termination without cause must be submitted to City within thirty (30) days after effective date of termination.

2. For Cause, If Seller fails to make any delivery in accordance with the agreed delivery date, delivery schedule, or otherwise fails to observe or comply with any of the other instructions, terms, conditions or warranties applicable to this P.O., City may, in addition to any other right or remedy provided by this P.O. or by law, terminate all or any part of this P.O. in writing without any liability of City with respect to Seller at any time during the term of this P.O. In the event of termination for cause, City may purchase supplies or services elsewhere on such terms or in such manner as City may deem appropriate and Seller shall be liable to City for any cost and other expenses incurred by City, which is charged to City.

CHANGES: City shall have the right at any time by written notice via P.O. Change Order to Seller to make changes in the specifications, the quantity of items called for, delivery schedules, and requirements covering testing, packaging, or destination. Any claim by Seller for adjustment under this clause shall be deemed waived unless made in writing with then (10) days after receipt by Seller of notice of such change. Price increases or extensions of time for delivery shall not be binding on City unless evidenced by a P.O. Change Order issued by City’s Purchasing Manager.

INSPECTION: City shall have the right to inspect and approve or reject any materials, supplies, services, and/or installations upon arrival of notice of completion prior to payment without regard to the manner of shipment, completion, or any shipping or price terms contained in this P.O. All materials, supplies, services and/or installations must be furnished as specified.

1. Defective, damaged, and nonconforming materials and/or supplies may be returned for credit or refund, at Seller’s expense. City may charge Seller for all expenses of unpacking, examining, repacking and reshipping of such materials and/or supplies.

2. Defective, incorrect and nonconforming services and/or installations may be returned for credit or refund, at Seller’s expense. All of the above notwithstanding prior payment by City.

3. City may waive defects that exist.

WARRANTY: Seller expressly warrants that all materials, supplies, services, and/or installations covered by this P.O. shall:

1. conform to the specifications, drawings, samples, or other descriptions specified by City or if none are so specified, to Seller’s standard specification or the standards of the ASTM or ANSI or other national standard organizations;

2. be new and unless specified to the contrary on the face hereof, will be free from defects in material and workmanship and will be free of all liens and encumbrances and will conform to any affirmation of facts made on the container or label;

3. be adequately contained, packaged, marked, labeled and/or provided in compliance with all applicable federal and state laws and regulations (including materials deemed hazardous); provided in compliance with all applicable federal and state laws and regulations (including materials deemed hazardous);

4. be performed within the rules and regulations of the Occupational Safety and Health Act of 1970 (as amended);

5. be produced or transferred or disposed of as required by federal and state laws and regulations under the conditions of the Toxic Substances Control Act; the Hazardous Materials Control and Hazardous Waste Regulations; and other toxic laws and programs.

6. have good marketable title.

GOVERNING LAW: This P.O. shall be governed by the laws of the State of California.

INDEPENDENT CONTRACTOR, INSURANCE: Seller certifies, by acceptance, that he/she is an independent contractor. Seller shall protect, defend, and indemnify and hold City harmless against all damages, liability, claims, losses and expenses (including attorney’s fees) arising out of, or resulting in any way from Seller’s negligence in providing the goods or services purchased hereunder or from any act or omission of Seller, its agents, employees, or subcontractors, Seller shall maintain such public liability insurance, including contractual liability, automobile and general public liability, (including non-owned automobile liability) Worker’s Compensation, and employer’s liability insurance as well adequately protect City against such damage, liabilities, claims, losses, and expenses (including attorney’s fees). Seller agrees to submit certificates of insurance, evidencing its insurance coverage when requested by City.

EQUAL OPPORTUNITY CLAUSE: By acceptance of this P.O., Seller certifies it is in compliance with the Equal Opportunity Clause required by Executive Order 11246, as amended, and the Palo Alto Municipal Code, as amended, including Affirmative Action Compliance Programs for Veterans; Handicapped; and Minority Business, and other equal opportunity programs.

FORCE MAJEURE: City may delay delivery or acceptance occasioned by causes beyond its control. Seller shall hold such materials, supplies, services, and/or installations at the direction of City and shall deliver them when the cause affecting the delay has been removed. City may be responsible only for Seller’s direct additional costs in holding the goods or delaying performance of this P.O. and City’s request. Seller shall also be excused if delivery is delayed by unforeseen events beyond its reasonable control, provided Seller notifies City as soon as they occur. City may cancel this P.O. if such delay exceeds thirty (30) days from the original delivery date. Seller shall use its best efforts to grant preference to this P.O. over those of other customers, which were placed after this P.O.

AUTHORITY OF AGENT OR FACTOR: Seller represents that, whenever it executes this P.O. on behalf of a third party as an agent or factor, it shall disclose the existence of the agency or factor relationship to City. Seller shall be deemed to have the legal authority to enter into this P.O. with City on behalf of the third party.

INTERPRETATION OF CONTRACT DOCUMENTS: In the event of a conflict between the terms of this P.O. and the attached specification with respect to any obligation of Seller, the provision which imposes the greater obligations upon Seller shall prevail.
ENVIRONMENTALLY PREFERRED PURCHASING REQUIREMENTS: Seller agrees to comply with the City’s Environmentally Preferred Purchasing Requirements.

1. Hazardous Waste:
Seller shall take-back all spent or otherwise discarded hazardous products sold to the City by the Seller if the spent or discarded products are classified as hazardous or universal wastes by State or Federal regulations. Seller shall provide convenient collection and recycling services (or disposal services if recycling technology is unavailable) for all universal wastes, which originate from the Vendor. Hazardous waste manifests or bills of lading must be provided to City staff upon request. Recycling and reuse of hazardous wastes must occur within the United States. Universal waste lists and information are available at www.dtsc.ca.gov/HazardousWaste/UniversalWaste/. A hazardous waste list is available at http://www.calrecycle.ca.gov/LEA/Training/wasteclas/yep.htm. Additional information can be obtained by contacting the City of Palo Alto Hazardous Waste Department at (650) 496-6980.

2. Zero Waste and Pollution Prevention:
Per Palo Alto City Council policy, the City is targeting to achieve Zero Waste by 2021. The City must also meet Municipal Regional Stormwater Permit requirements requiring no visible impact from litter via stormdrains by 2022. To that end the vendor, manufacturer and/or contractor must individually or collaboratively comply with the waste reduction, reuse and recycling requirements of the City’s Zero Waste and Pollution Prevention Programs. Seller acknowledges and agrees that if Seller fails to fully and satisfactorily comply with these requirements, the City will suffer, as a result of Seller’s failure, substantial damages which are both extremely difficult and impracticable to ascertain. Therefore, the Seller agrees that in addition to all other damages to which the City may be entitled, in the event Seller fails to comply with the below requirements Seller shall pay City as liquidated damages the amounts specified below. The liquidated damage amount is not a penalty but considered to be a reasonable estimate of the amount of damages City will suffer as a result of such non-compliance.

- Sellers shall adhere to the standard that all printed materials provided to the City are generated from a personal computer and printer including, proposals, quotes, invoices, reports, and public education materials shall be double-sided, printed on a minimum of 30% post-consumer content paper or greater unless otherwise approved by the City’s Environmental Services Division (650) 329-2117. Materials printed by a professional printing company shall be a minimum of 30% post-consumer material or greater and printed with vegetable based inks. Liquidated damages of $30 per document will be assessed by City for failure to adhere to this requirement;

- All paper packaging must be Forest Stewardship Council (FSC) Certified.

- All primary, secondary and shipping (tertiary) packaging be minimized to the maximum extent feasible while protecting the product being shipped;

- All primary, secondary and shipping packaging shall be recyclable in the City’s recycling program. A complete list of items accepted for recycling are found at www.zerowastepaloalto.org or by calling (650) 496-5910. If any portion is received that does not meet this requirement, liquidated damages of $235 or a minimum of $50 if the combined product and shipping cost is $235 or less will be assessed by City for failure to adhere to this requirement.

- Expanded foam plastics (e.g., foam or cushion blocks, trays, packing “peanuts”), such as but not limited to polystyrene (aka Styrofoam™), polypropylene, or polyurethane shall not be used as primary, secondary or tertiary/shipping packaging with the following exceptions:
  o Primary packaging made from these materials may be used if the vendor, manufacturer, contractor individually or collaboratively does one of the following:
    • takes the material back at the City’s convenience and at no cost to the City, or
    • pays the City of Palo Alto’s disposal costs via payment of liquidated damages of $235, or a minimum of $50 if the combined product and shipping cost is $235 or less;
  o Bioplastics that meet ASTM D6400 standards for compostability may be accepted with approval from the City’s Environmental Services Division subject to local municipal compost facility requirements;
  o if approved by the City’s Environmental Services Division, a packaging requirement may be waived if no other viable packaging alternative exists;

- Reusable/returnable pallets shall be used and taken back by the Seller, at no additional cost to the City. Seller shall provide documentation upon request ensuring reuse of pallets and/or recycling of broken pallets. Liquidated damages of $262 or a minimum of $50 if the combined product and shipping cost is $262 or less will be assessed by City for failure to adhere to this requirement.

3. Energy and Water Efficiency:
Seller shall provide products with an ENERGY STAR, Water Sense or State of California standard rating, whichever is more efficient, when ratings exist for those products. A life cycle cost analysis shall be provided to the City upon request and shall at minimum include: first cost, operating costs, maintenance costs, and disposal costs.

Contacts for additional information about City of Palo Alto Hazardous Waste, Zero Waste and Utilities programs:

- Hazardous Waste Program (Public Works)
  (650) 496-6980

- Zero Waste Program (Public Works)
  (650) 496-5910

- Watershed Protection
  (650) 329-2117

- Energy Efficiency
  (650) 496-2244

4. Liquidated Damages:
Seller agrees that failure to comply with the City’s Environmentally Preferred Purchasing Requirements will result in Liquidated Damages, according to the table marked Liquidated Damages on page 3 of this P.O.
NONCOMPLIANCE WITH ENVIRONMENTALLY PREFERRED PURCHASING REQUIREMENTS, LIQUIDATED DAMAGES:
The following table lists the events that constitute breaches of the Agreement’s standard of performance warranting the imposition of liquidated damages; the acceptable performance level, and the amount of liquidated damages for failure to meet the contractually required standards of performance.

<table>
<thead>
<tr>
<th>Event of Non-Performance</th>
<th>Acceptable Performance Level (Allowed events per Fiscal Year)</th>
<th>Liquidated Damage Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recycled Paper Use</td>
<td>1</td>
<td>$30 per each document</td>
</tr>
<tr>
<td>Failure to use 30% recycled content paper</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recyclable Packaging Materials</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Failure of Seller to Use secondary and shipping packaging that is recyclable in the City’s recycling program.</td>
<td>1</td>
<td>$235 or a minimum of $50 if the combined product and shipping cost is $250 or less will be incurred if this is not adhered to.</td>
</tr>
<tr>
<td>Expanded Foam Plastics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unapproved use of expanded foam plastics for secondary or shipping packaging</td>
<td>0</td>
<td>$235 or a minimum of $50 if the combined product and shipping cost is $235 or less.</td>
</tr>
<tr>
<td>Pallet use</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Failure of Seller to take-back and reuse pallets, recycling only broken pallets, at no additional cost to the City.</td>
<td>1</td>
<td>$262 or a minimum of $50 if the combined product and shipping cost is $2 or less.</td>
</tr>
</tbody>
</table>
Summary Title: Draft Housing Element

Title: Review of, and Direction to Staff to Submit, the Draft 2023-31 Housing Element, as Modified, to the State Department of Housing and Community Development for its 90-Day Review. The Planning and Transportation Commission Will Participate in a Joint Meeting With the City Council to Discuss the Draft Housing Element. Environmental Review: This Action is not a Project in Accordance With the CEQA Guidelines.

From: City Manager

Lead Department: Planning and Development Services

Recommendation:
Staff recommends the City Council take the following actions:

1. Conduct a joint meeting with the Planning and Transportation Commission to receive public and PTC comments on the public review draft 2023-31 Housing Element;
2. Review and provide direction to staff to incorporate changes to the public review draft Housing Element as specified in Attachment A; and,
3. Direct staff to submit a revised draft Housing Element to the California Department of Housing and Community Development.

Executive Summary:
The City has prepared the draft Housing Element document⁠¹ and made it available for a 30-day public review starting on November 7, 2022 (closes December 7, 2022). The primary purpose of this meeting is to collect comments on the draft document from the public, the Planning & Transportation Commission (PTC), and City Council. Toward this effort, the City conducted a Community Meeting on November 16, 2022, to provide the community a forum to provide comments and receive a basic overview of the draft Housing Element document.

¹ www.paloaltohousingelement.com
Based on the comments received and an ongoing review of housing element comment letters to other jurisdictions, staff will evaluate and revise the draft document including additional housing element programs or modifications prior to State Housing and Community Development (HCD) review. Staff requests the PTC and Council review and endorse these anticipated changes shown in Attachment A. Depending on public comments, additional programs or implementing objectives may be added following Council review, however, staff will not make any substantive policy changes without prior Council authorization.

Staff plans on submitting the draft Housing Element to HCD for its initial 90-day review by the end of December 2022.

**Background:**
The Housing Element is the City’s plan to provide housing for its current and future residents and is the only element of the City’s Comprehensive Plan (Comp Plan) that requires certification by the State. The Housing Element covers a period of eight years; the City is currently in the 5th Cycle of Housing Elements that cover the years between 2015 and 2023. The 6th Cycle will cover eight years between 2023 and 2031. The deadline to adopt a compliant Housing Element for the 6th Cycle Housing Element is January 31, 2023. For reference, please click [here](https://paloaltohousingelement.com/wp-content/uploads/2021/04/Certified-15-23-Housing-Element.pdf) for a copy of the 5th Cycle Housing Element.

**Draft Housing Element Document**
The draft of the 2023-2031 Housing Element document is available to review on the project website (see footnote #1).

Two significant components of the Housing Element update include identifying sufficient sites to meet the City’s Regional Housing Needs Allocation (RHNA) of 6,086 units and creating goals, policies, and programs to spur housing development for all segments of the community. Both the PTC and City Council have previously reviewed and endorsed the housing element sites and programs. Concurrently, staff has been preparing other components of the draft Housing Element.

The draft Housing Element contains the following chapters:

1. Executive Summary
2. Introduction
3. Housing Needs

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3 Note: There have been minor changes to some of the Programs, Implementing Objectives and Timelines, some rewording to improve readability and some reformatting since the Council’s last review; none of the changes were substantive or modify previously endorsed policy guidance.
a. Reviews the housing needs of the City including affordability and physical conditions.

4. Housing Resources
   a. Identifies sites to meet the City’s RHNA and provides the rationale for the selection of the sites.

5. Housing Constraints
   a. Analyzes governmental and non-governmental constraints or barriers that may hinder housing production.

6. Housing Plan (includes Housing Element programs)
   a. Describes the programs developed to address the issues identified in the previous chapters (i.e., needs, resources, and constraints).

Additionally, Appendix C contains the City’s analysis of Affirmatively Furthering Fair Housing (AFFH). AFFH is a new State requirement that mandates each jurisdiction take meaningful actions to further fair housing to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. The Housing Element, including the sites inventory and programs, must be reviewed through the filter of AFFH requirements.

As noted in Attachment A, staff anticipates some additional refinement to the AFFH chapter based on recent comment letters to other jurisdictions in the Bay Area. Moreover, staff has learned that matrix summarizing HCD’s requirements compared to the City’s programs and implementing objectives may facilitate HCD review; staff will attempt to prepare this information and incorporate it into the HCD draft before submittal.

**Review Process and Public Comment Requirements**

The City has been consistently receiving public comments during the entire update process since May 2021. The public has been actively participating in over 20 Housing Element public meetings, submitting written comments, and meeting directly with staff. However, the 30-day public review period, running November 7 – December 7, 2022, is one of the formal State required public comment opportunities. The 30-day public review is required prior to the City submitting the draft Housing Element to HCD for their 90-day review.

**HCD Review Process Next Steps**

Below are the next steps of the Housing Element Update process, with a brief description of each step.

1. **Public Participation Requirements/30-day Comment Period**

   Prior to the submittal of the Housing Element draft to HCD, the local government must make the draft available for public comment for 30 days and if any comments were
received, take at least 10 business days to consider public comments. Staff will review the public comments and include a description of how the City processed the comments with the submittal of the draft Housing Element to HCD.

2. Submit Draft to HCD for Review/90-day Review Period

HCD will review the City’s draft against all the requirements needed for compliance. After the 90-day review, the City will receive a letter from HCD detailing any changes or revisions HCD believes are needed for the draft to substantially comply with state law. During these 90 days, staff will be in conversation with its HCD reviewer and available as appropriate to respond to questions to help facilitate review. However, it is typical for jurisdictions to receive multi-paged comment letters from HCD outlining their draft’s deficiencies.

3. Revise Draft Housing Element per HCD Comments; City May Choose to Adopt or Resubmit to HCD.

After receiving HCD’s comment letter on its draft Housing Element, staff will prepare a revised document for PTC review and recommendation to the City Council; and ultimately Council direction. At this point, the City may choose to either (1) submit the additional revisions as a draft for review by HCD, or (2) adopt the Housing Element with or without changes. In the event the City elects to adopt a Housing Element without all changes suggested by HCD, the City must adopt written findings explaining why it believes the Housing Element substantially complies with state law despite HCD’s findings to the contrary.

4. Submit Revised Draft/Adopted Housing Element to HCD.

In the event the City chooses to submit a revised draft to HCD prior to adoption, it must first post the draft revision on its website and email a link to all individuals and organizations that have previously requested notices relating to the housing element at least seven days prior to submission. Subsequent HCD reviews will take up to 60 days. If the revisions address and meet all the comments in the HCD review letter, HCD may issue a “substantial compliance” letter to the jurisdiction stating that if the jurisdiction adopts the Housing Element as outlined in the responses, the Housing Element substantially complies with the State Housing Element requirements. However, generally, because of the new requirements, many jurisdictions have not received certification after the second review. Because of this, HCD recommends that jurisdictions plan on a potential 3rd review. Thus, certification could be delayed even further.
If the City instead adopts its Housing Element (with or without changes), it must submit the adopted document to HCD for review. HCD may take 90 days to review the adopted Housing Element and may issue findings regarding further changes it believes are needed to substantially comply with state law. The City would then have no more than 30 days to provide a response.

**Discussion:**
This section highlights the current understanding of the types of comments HCD has been providing jurisdictions, what additional programs are needed, and how the City can respond to HCD comments. Additionally, a summary is provided of other required tasks to complete in the Housing Element update process and the implications of a non-compliant Housing Element. The items described below paint a more complete picture of things to consider or be aware of as the Housing Element update moves into the next phase of work.

**HCD Comments**
The public review draft of the Housing Element has been prepared with the Working Group, PTC, City Council, and community input based on HCD and State requirements. Due to the number of new requirements approved by the State since 2015, this Housing Element update is much more technical and complex than previous Housing Elements. This directly translates into making Housing Element certification much more onerous to obtain, as southern California jurisdictions are experiencing. The deadline for southern California jurisdictions to have a compliant Housing Element was October 15, 2021. As of October 25, 2022, of the 89 jurisdictions in Los Angeles County, 54 jurisdictions are out of compliance (61%). Although Association of Bay Area Governments (ABAG) jurisdictions have learned much from the experience of their southern California counterparts, it is anticipated that ABAG jurisdictions will have the same experience with HCD review.

As mentioned, many of the HCD comments other jurisdictions received have focused on the new State requirements. In May 2022, ABAG performed a review of 33 HCD comment letters to jurisdictions in Sacramento and Southern California regions. They determined that many assumptions made in previous Housing Elements will not be possible this cycle. In addition, by surveying the 33 letters, ABAG identified the following five Housing Element components that had the most comments (with the percentage of letters that contained comment of each area):

1. AFFH (94%)
2. Public Participation (67%)
3. Sites Inventory (94%)
4. Government Constraints (58%)
5. Policies and Programs (55%)
Clearly, AFFH and sites inventory were the highest areas of focus for HCD. A copy of the ABAG letter is available online.⁴

Recently, some Bay Area jurisdictions have received their initial HCD comment letters. In September 2022, ABAG did a review of those letters. ABAG summarized HCD comments for those Bay Area jurisdictions, which were similar to the southern California comments. These comments included:

1. Greater AFFH review
2. More public outreach
3. More documentation for sites inventory

A copy of the September 2022 ABAG analysis is available online.⁵

Additional Housing Element Programs
Based on the review of the HCD letters, for the public review draft preparation, staff has continued to focus further on those most commented areas noted above. Staff has continually refined the sites inventory to identify the most suitable and available sites per HCD guidance while providing additional information and analysis. The public also continues to scrutinize the sites inventory, and staff considers each request and makes revisions when appropriate. While staff has endeavored to prepare a thorough AFFH discussion and associated programs, staff is certain that HCD will still comment on the draft AFFH section. During the 30-day review of the draft Housing Element, staff is continuing to review other HCD comment letters to address AFFH “gaps” in the programs. As noted in Attachment A, staff endeavors to facilitate HCD review of the City AFFH programs by including a summary matrix that has been helpful for other jurisdictions. If completed in time, and with the Council’s consent, staff will include it with the draft Housing Element submitted to HCD.

In addition to AFFH revisions, staff has determined that some additional programs need to be included in the draft Housing Element. These programs, also reflected in Attachment A, will be inserted in the Housing Element prior to HCD submittal. Some of those programs include:

- Lot Consolidation Incentives
  - Because of the small size of many City parcels, it limits development and has been identified as a constraint. Therefore, a program to increase lot sizes needs to be included.

- Objective Design Standards for SOFA (South of Forest Coordinated Area)

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Objective design standards facilitate housing production by streamlining the approval process. In June 2022 the City Council converted the context-based design criteria in the zoning code to objective standards. Development standards for SOFA is not included in the zoning code and require an amendment to the SOFA coordinated area plan.

- Annual Amendment of the Municipal Code to Comply with State Law
  - This is a proposed program where the City will complete regular code amendments to comply new or updated State laws. An example is the Accessory Dwelling Unit ordinance update that incorporates ADU legislation from September 2022, scheduled for Council review December 12, 2022.

Also, depending on comments from the public and HCD, the staff may also include additional implementing objectives for each of the programs.

City’s Response to HCD’s Initial Comments
When HCD provides formal comments on the draft Housing Element after its initial 90-day review, those formal comments are intended to provide direction to the jurisdiction to achieve compliance with State Housing Element law. As noted above, the City may choose at this juncture to submit additional revisions for HCD as drafts or to adopt its Housing Element with or without changes. In the event the City chooses to adopt, it may need to make written findings explaining why it believes the document substantially complies with state law. HCD will then review the adopted Housing Element and may opine that additional changes are necessary to bring it into substantial compliance with state law. The City would then have no more than 30 days to respond to these findings. Staff would continue to work with HCD following adoption and may prepare revisions to the Housing Element for the Council to adopt.

Other Key Tasks to Complete
In addition to the review of the draft Housing Element document and getting that submitted to HCD, work continues on the related municipal code amendments, Comprehensive Plan (Comp Plan) amendments, and the environmental review. These tasks require focused attention and have separate process review requirements that will run parallel to the review of the Housing Element document.

Zoning Code and Comprehensive Plan Consistency
As part of the Housing Element update process, staff will review the Comp Plan and Zoning Code to determine what amendments are needed to ensure consistency throughout all three documents. Some zoning code changes will need to be implemented as part of the Housing Element update; below are some examples:
  A. Allow residential uses in the General Manufacturing (GM) zone
  B. Upzone the density of certain parcels listed in the site inventory to meet the City’s RHNA
C. Revise the Housing Incentive Program (HIP) to apply to other zones and locations, in addition to commercial zones in locations currently stated in the ordinance.

Staff is in the process of identifying what amendments are needed for the Comp Plan.

**Environmental Analysis**
Concurrent with the development of the draft Housing Element, environmental review for the Housing Element and associated Comprehensive Plan and code changes is under way; a scoping meeting was held on October 13, 2022. Staff continues to engage its consultant to determine the most appropriate path forward, which will rely in part on the City’s certified comprehensive plan environmental impact report.

**Consequences for Non-Compliant Housing Elements**

As discussed above, state law requires jurisdictions to submit draft and adopted Housing Elements to HCD for review. Although HCD is required to make a determination regarding whether a Housing Element substantially complies with state law, in the event of a disagreement between a jurisdiction and HCD regarding substantial compliance, the issue is ultimately left to the courts to decide.

The potential consequences of a court determination of non-compliance are severe. Litigation may be brought by any interested party (Gov. Code 65587(b)) or the office of the Attorney General (Gov. Code 65585). If a court finds that the jurisdiction’s Housing Element is inadequate, it must include one or more of the following remedies in its order:

- Suspension of the jurisdiction’s authority to issue building permits or related permits while permits are outstanding for housing projects;
- Suspension of the jurisdiction’s authority to grant zoning changes, variances, and map approvals;
- Mandated approval of residential housing projects (Gov. Code 65755).

Essentially, until the jurisdiction adopts a compliant Housing Element, a court is empowered – and to some extent required – to halt all development activity in the jurisdiction other than permits for housing projects.

In addition, recent legislation expanded the authority of the Office of the Attorney General to enforce housing element law. In suits brought by the Office of the Attorney General, a court is required to impose fines on jurisdictions that consistently refuse to adopt a compliant Housing Element. The fines range from a minimum of $10,000 per month, up to $600,000 per month. If a jurisdiction has not adopted a compliant Housing Element within 18 months following a court order, the court may appoint a receiver to take all governmental actions necessary to bring the jurisdiction’s Housing Element into compliance (Gov. Code 65585).
In addition, the City may not be eligible for State housing funds. The State has made a “compliant Housing Element” an eligibility requirement for State housing funds. There have also been discussions of having a compliant Housing Element as an eligibility requirement for State transportation funds.

And most recently, there has been statewide discussions about a “builder’s remedy” in the Housing Accountability Act (HAA) and jurisdictions with non-compliant Housing Elements. In short, the builder’s remedy refers to a provision of the Housing Accountability Act (HAA) that obligates a jurisdiction that does not have a compliant housing element to approve certain affordable housing projects even if the projects are inconsistent with local zoning or general plan regulations. Staff previously provided a discussion of the builder’s remedy as a supplemental memo to Item #12 on the Council’s November 7, 2022 agenda.6

**Summary of Key Issues:**

City Council and PTC are requested to:

1. Review the draft Housing Element and provide feedback to staff for text corrections, additions, and deletions; and
2. Review and comment on the attached list of additional information, including programs that are planned to be added to the draft Housing Element.

Staff will review and incorporate the applicable comments received into the draft Housing Element that is submitted to HCD.

**Resource Impact:**

The implementation of the Housing Element will require staff resources to complete rezones, program implementation, and prepare studies. Generally, all tasks will need to be completed within the first couple of years of Housing Element adoption. This will involve greater staff resources and the use of consultants for the studies and potential environmental review. Budget requests related to these activities will be reflected in the annual budget development process.

**Timeline:**

The immediate next steps after the 30-day public comment period closes are to review all the comments before submitting the draft Housing Element to HCD by late December 2022. The City will receive HCD comments by late February 2023. Staff will revise the draft per HCD comments and begin preparing the final draft for PTC consideration and ultimately City Council adoption, when appropriate.

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Stakeholder Engagement:
To announce the release of the Public Review draft, a newspaper ad was published in the Daily Post on November 4, 2022. An email blast was sent to over 400 recipients with information about the Public Review draft release, the November 16 Community Meeting, and the November 28 joint Council/PTC meeting. Social media flyers were also prepared and distributed through the City’s social media. The City’s Housing Element website, www.paloaltohousingelement.com, was updated with all the information including a copy of the draft and zoom meeting information for the two meetings.

Environmental Review:
The City’s 6th Cycle Housing Element will require environmental review pursuant to the California Environmental Quality Act (CEQA). While many of the impacts of the new Housing Element may have been studied as part of the Comprehensive Plan Final Environmental Impact Report, which was certified and adopted by the Council by Resolution No. 9720 on November 13, 2017, some additional analysis will likely be required.

Attachments:
Attachment9.a: Attachment A: Supplemental Revisions to Draft Housing Element (DOCX)
Staff seeks Council approval for staff discretion to modify the draft Housing Element as appropriate to minimize HCD comments, facilitate HCD review and enable timelier certification. Staff will not introduce substantive policy changes but may add programs that require future staff resources or consultant funding. The City Council will ultimately have an opportunity to review any changes before adopting the Housing Element. Changes made will generally relate to the following areas:

1. **Public Comment.** Revisions may be made based on public comments received during the 30-day public comment period and may include text revisions to improve clarity, formatting or address identified deficiencies that staff agrees require correction. No changes will be made to the draft Housing Element that materially alters prior Council policy direction.

2. **HCD Comment Letters.** Staff and consultant continue to monitor HCD comment letters on other jurisdiction’s Housing Elements. Based on this review and in comparison to the City’s draft Housing Element, staff may incorporate changes to address any statutory content deficiencies or improve clarity. Such changes may include the addition of new programs, implementing objectives, adjusted timelines or other changes to achieve statutory compliance. Staff will not introduce new material that departs from prior City Council’s policy guidance or establishes new policy that reasonably warrants Council review.

3. **Affirmatively Furthering Fair Housing (AFFH).** As noted in the staff report, many HCD comments are generated based on AFFH compliance. Staff anticipates developing additional information to facilitate HCD review and further demonstrate the City’s compliance with State law. In preparing this document, if any statutory deficiencies are identified, staff may include the addition of new programs, implementing objectives, adjusted timelines or other changes to achieve statutory compliance. Staff will not introduce new material that departs from prior City Council’s policy guidance or establishes new policy that reasonably warrants Council review. Commitment of staff resources and possibly consultant funding may be required.

4. **New Programs.** Based on the foregoing, staff has already identified specific new programs that should be incorporated into the draft Housing Element. With Council’s support the following Programs and implementing objectives will be included with the HCD draft Housing Element:

**PROPOSED PROGRAM A: LOT CONSOLIDATION.** Approximately two-thirds of the City’s multifamily lots are less than 10,000 sq. ft. To facilitate the development of housing, especially affordable housing, of all sizes and scale, the City will routinely coordinate with property owners and give high priority to processing subdivision maps that include affordable housing units. Additionally, the City will adopt incentives for
development of high-density residential sites such as reducing minimum yard setbacks, and open space to enhance design flexibility and create a more pedestrian-oriented environment and modifying parking standards where access exists to public transportation.

Responsible Agency: PDS
Funding Source: General fund
Implementing Objective

A. Implementing Objective: Facilitate lot consolidation on mixed-use developments by providing information and technical assistance to property owners and developers.

B. Offer incentives for lot consolidation when minimum standards are met. Incentives could include graduated densities based on larger lot sizes, reduced setbacks, increased lot coverage, rounding up when calculating allowable units and height allowances.

Time Frame: June 30, 2024

Quantified Objective: Expedite four lot consolidation projects during the planning period.

PROPOSED PROGRAM B: OBJECTIVE STANDARDS FOR SOUTH OF FOREST COORDINATED PLAN (SOFA). The City recently adopted objective design standards in its zone districts. However, because of the uniqueness of the SOFA standards, objective standards were not done for SOFA. Providing objective design standards provides developers clear direction in developing projects, which leads to greater efficiencies. In addition, in certain situations, the lack of objective design standards in the SOFA area may limit the City’s ability to review projects.

Responsible Agency: PDS
Funding Source: General fund
Implementing Objective

Develop objective design standards for the South of Forest Coordinated Plan (SOFA)

Time Frame: December 31, 2025

PROPOSED PROGRAM C: ZONING ORDINANCE MONITORING. The City’s Zoning Ordinance is continuously updated to address changes among a range of issues and State/Federal laws. The City will continue to monitor its policies, standards, and regulations to ensure they comply with State and federal requirements. The zoning ordinance will be amended annually, at a minimum, to ensure compliance.

Responsible Agency: PDS
Funding Source: General fund
Implementing Objective

C. Amend the zoning code to comply with AB 101 to permit low barrier navigation centers

D. Amend the zoning code to comply with the Employee Housing Act.
E. Amend the zoning code to comply with AB 101 to permit residential care facilities by right and remove the requirement of a CUP

**Time Frame:** Complete December 31, 2024. This program would be implemented on an ongoing basis through the remainder of the planning period.

**Quantified Objective:** Continue to amend the zoning code as needed.

**PROPOSED PROGRAM D: CIRCULATE HOUSING ELEMENT TO WATER SUPPLIERS.** Meeting a State requirement, the City will provide a copy of the adopted 2023–31 Housing Element to applicable water supply agencies and purveyors within 30 days of adoption. The City will also continue to coordinate with these agencies to ensure affordable housing developments receive priority water service provision if and when development is restricted by water shortages within the region.

- **Responsible Agency:** PDS
- **Funding Source:** General fund
- **Implementing Objective:** Provide a copy of the adopted 2023-31 Housing Element to the City’s Utilities Department.

**Time Frame:** Within 30 days of adoption
City of Palo Alto
City Council Staff Report

Meeting Date: 11/28/2022

Title: Approval of Amendments to the Employment Agreements between the City of Palo Alto and Council Appointed Officers, specifically the City Manager, City Attorney and City Clerk

From: City Manager

Lead Department: Human Resources

Recommendation
Staff recommends that the City Council approve and authorize the Mayor to execute the following contract amendments for Council Approved Officers:

1. Amendment No. 10 to Employment Agreement between the City of Palo Alto and Molly S. Stump;
2. Amendment No. 4 to Employment Agreement between the City of Palo Alto and Ed Shikada;
3. Amendment No. 1 to Employment Agreement between the City of Palo Alto and Lesley Milton.

Background / Discussion
The City Council has completed annual merit reviews for Council Appointed Officers (CAOs) for the prior fiscal year’s performance (FY2021/22). Staff has been directed by City Council to forward amendments to employment agreements to implement merit-based increases to the CAO’s annual salaries, effective July 1, 2022, as follows: City Attorney Molly S. Stump, merit increase of 4% from $322,837 to $335,750 (Attachment A); City Manager Ed Shikada, merit increase of 4% from $366,704 to $381,372 (Attachment B); and, City Clerk Lesley Milton merit increase of 4% from $175,011 to $182,011 (Attachment C).

As appointed officers of the Council, the City Manager, City Attorney and City Clerk are employed under employment agreements specifying that performance and salary are evaluated annually. The following paragraph is the specific provision in the City Manager’s employment agreement that addresses salary adjustments, and similar language exists in the City Attorney’s employment agreement:

1. Previous Employment Agreements of the City Manager and City Attorney (PG 310)
2. Previous Employment Agreement for the City Clerk
**Salary Adjustments.** Not less than once each year, the City Council shall meet for the express purpose of evaluating the performance of Shikada and determining whether to grant him an increase in annual base salary based on performance. The City Council will act in good faith in determining whether to provide an increase based on performance, but the ultimate decision in this regard is within the sole discretion of the City Council. The Council may also adjust Shikada's annual base salary due to labor market and/or internal equity conditions.

For the FY22 performance evaluation period, City Council completed evaluations for the City Manager, City Attorney and City Clerk. Council completed the evaluations with the assistance of an outside consultant. The consultant, a principal with the firm MRG, is an expert in Council-Appointee relations and facilitates CAO evaluations with many agencies throughout California. The process includes surveys, 1-1 interviews, and facilitated closed session discussions as appropriate under the Brown Act.

At the conclusion of the CAO evaluation process, Council directed staff to prepare amendments reflecting a 4% increase to the salaries of the City Manager, City Attorney and City Clerk. The amendments are attached to this staff report as exhibits. The 4% increase to the salary for City Manager and City Attorney are the only changes to the agreements and all other terms and conditions remain the same. However, the City Clerk’s contract amendment includes the 4% salary increase and also $5000 to deferred compensation 401a plan.

**Resource Impact**
The additional cost for merit increases of approximately $40,000 for the CAO positions is expected to be absorbed through savings in the respective departmental FY 2023 Adopted Budgets.

**Policy Implications (If Applicable)**
No City policy implications.

**Stakeholder Engagement**
Employment agreements of local public agency executives are required to be voted on in open session when change in salary or benefits is proposed to provide transparency for stakeholders.

**Environmental Review**
Approval of the CAO employment agreements does not require review under the California Environmental Quality Act (“CEQA”) because the scope of work of these employment agreements is not a project under CEQA.

**Attachments:**
- Attachment10.a: Attachment A: City Manager Amendment to Ed Shikada Employment Agreement No 4_TJH edits
- Attachment10.b: Attachment B: City Attorney Amendment to Molly Stump Agreement No Ten_TJH edits
• Attachment10.c: Attachment C: City Clerk Amendment No One to Lesley Milton Employment Agreement_TJH edits
AMENDMENT NO. THREE TO EMPLOYMENT AGREEMENT

BETWEEN

THE CITY OF PALO ALTO

AND

Edward Shikada

This AMENDMENT NO. Three to the EMPLOYMENT AGREEMENT (“Agreement”) is entered into on December 13, 2021 by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“City”), and Edward Shikada (“Shikada”), an individual, located at 250 Hamilton Avenue 7th Floor, Palo Alto, CA.

RECITALS:

WHEREAS, the original EMPLOYMENT AGREEMENT between the City and Shikada, attached hereto and incorporated herein as Exhibit “A” was entered between the parties for the services of City Manager on or about September 18, 2018; and

WHEREAS, AMENDMENT NO. ONE to the Agreement, attached hereto and incorporated herein as Exhibit “B” was entered between the parties on or about December 16, 2019; and

WHEREAS, AMENDMENT NO. TWO to the Agreement, attached hereto and incorporated herein as Exhibit “C” was entered between the parties on or about June 22, 2020; and

WHEREAS, AMENDMENT NO. THREE to the Agreement, attached hereto and incorporated herein as Exhibit “D” was entered between the parties on or about December 13, 2021; and

WHEREAS, the parties wish to amend the Agreement;

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

SECTION 1. Section 4.1 of the Agreement, Initial Compensation, is hereby amended to read as follows:

4.1. Compensation. Commencing on and continuing from the Employment Start Date, Shikada will receive an initial base annual salary of Three Hundred Fifty-Six Thousand Dollars ($356,000), prorated and paid on City’s normal paydays. At the recommendation of the Palo Alto City Council Appointed Officers Committee (CAO) and consistent with annual merit practices, effective the first full pay period following July 1, 2022, Shikada will receive a base annual salary of Three Hundred Sixty-Eighty-One thousand Six hundred and Eighty-seven dollars ($368,704). This amount is subject to authorized or required deductions and withholding, prorated and paid on City’s regular paydays. Shikada is an exempt employee under applicable wage and hour law and his base salary shall be compensation for all hours worked. The City agrees that the amount of Shikada’s base annual salary will not decrease, except as part of the permanent decrease that is consistent with the

SECTION 2. Except as herein modified, all other provisions of the Contract, including any exhibits and subsequent amendments thereto, shall remain in full force and effect.

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

Attest: City of Palo Alto

Approved as to form: Edward Shikada

Attachments:

EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PALO ALTO AND EDWARD SHIKADA AMENDMENTS NO. ONE THROUGH NO. TWO-THREE TO SHIKADA EMPLOYMENT AGREEMENT
AMENDMENT NO. NINE TEN TO EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PALO ALTO AND MOLLY S. STUMP

This AMENDMENT NO. TEN to the EMPLOYMENT AGREEMENT (“Agreement”) is entered into on November 28, 2022 by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“City”), and MOLLY S. STUMP (“Stump”), an individual, located at 250 Hamilton Avenue 8th Floor, Palo Alto, CA.

RECITALS:

WHEREAS, the original EMPLOYMENT AGREEMENT between the City of Palo Alto and Molly S. Stump, attached hereto and incorporated herein as Exhibit “A” was entered into between the parties for the services of City Attorney on or about April 18, 2011; and

WHEREAS, AMENDMENT NO. ONE to the Agreement, attached hereto and incorporated herein as Exhibit “B” was entered into between the parties on or about March 24, 2014; and

WHEREAS, AMENDMENT NO. TWO to the Agreement, attached hereto and incorporated herein as Exhibit “C” was entered into between the parties on or about December 8, 2014; and

WHEREAS, AMENDMENT NO. THREE to the Agreement, attached hereto and incorporated herein as Exhibit “D” was entered into between the parties on or about February 1, 2016; and

WHEREAS, AMENDMENT NO. FOUR to the Agreement, attached hereto and incorporated herein as Exhibit “E” was entered into between the parties on or about December 12, 2016; and

WHEREAS, AMENDMENT NO. FIVE to the Agreement, attached hereto and incorporated herein as Exhibit “F” was entered into between the parties on or about November 6, 2017; and

WHEREAS, AMENDMENT NO. SIX to the Agreement, attached hereto and incorporated herein as Exhibit “G” was entered into between the parties on or about December 17, 2018; and

WHEREAS, AMENDMENT NO. SEVEN to the Agreement, attached hereto and incorporated herein as Exhibit “H” was entered into between the parties on or about December 17, 2019; and

WHEREAS, AMENDMENT NO. EIGHT to the Agreement, attached hereto and incorporated herein as Exhibit “I” was entered into between the parties on or about June 22, 2020; and
WHEREAS, AMENDMENT NO. NINE to the Agreement, attached hereto and incorporated herein as Exhibit “J” was entered into between the parties on or about December 13, 2021; and

WHEREAS, the parties wish to amend the Agreement;

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

SECTION 1: Section 3.1 of the Agreement, Compensation, is hereby amended to read as follows:

At the recommendation of the Palo Alto City Council Appointed Officers Committee (CAO) and consistent with annual merit practices, effective the first full pay period following July 1, 2022, Stump will receive a base annual salary of Three Hundred Thirty-Five Thousand Seven-Hundred Fifty dollars ($335,750), paid on City’s normal paydays. Stump’s annual base salary shall remain at Three Hundred Thirteen Thousand Four Hundred and Fourteen and No/100 Dollars ($313,414), prorated and paid on City’s regular paydays. Stump shall be an exempt employee under applicable wage and hour law and her base salary shall be compensation for all hours worked. City agrees that the amount of Stump’s base annual salary shall not decrease, except as part of a permanent decrease that is consistent with the Fair Labor Standards Act and that is applicable to either all Council Appointed Officers or all City Executive Staff (which includes all Council Appointed Officers).

SECTION 2: Except as herein modified, all other provisions of the Contract, including any exhibits and subsequent amendments thereto, shall remain in full force and effect.

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

Attest:  
City of Palo Alto

______________________________  ______________________________

Approved as to form:  
Molly S. Stump
Attachments:

EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PALO ALTO AND MOLLY S. STUMP AMENDMENTS NO. ONE THROUGH NO. EIGHT NINE.
AMENDMENT NO. ONE TO EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PALO ALTO AND LESLEY MILTON

This AMENDMENT NO. ONE to the EMPLOYMENT AGREEMENT (“Agreement”) is entered into on November 28, 2022 by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“City”), and LESLEY MILTON (“Milton”), an individual, located at 250 Hamilton Avenue 7th Floor, Palo Alto, CA.

RECITALS:

WHEREAS, the original EMPLOYMENT AGREEMENT between the City of Palo Alto and Lesley Milton, attached hereto and incorporated herein as Exhibit “A” was entered into between the parties for the services of City Clerk on or about July 26, 2021; and

WHEREAS, AMENDMENT NO. ONE to the Agreement, attached hereto and incorporated herein as Attachment “C” was entered into between the parties on or about November 28, 2022; and

WHEREAS, the parties wish to amend the Agreement.

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

SECTION 1: Section 3 of the Agreement, Salary, is hereby amended to read as follows:

Commencing on and continuing from the pay period including July 1, 2022, Milton’s annual base salary shall be increased from $175,011 to $182,011, prorated and paid on City’s regular paydays. This amount is subject to authorized or required deductions and withholding, prorated and paid on City’s regular paydays. Milton is an exempt employee under applicable wage and hour law and her base salary shall be compensation for all hours worked. The City agrees that the amount of Milton’s base annual salary will not decrease, except as part of the permanent decrease that is consistent with the Fair Labor Standards Act.

SECTION 2. Additional Benefits and Allowances. In addition to the benefits specified in section 5, Milton will receive the following additional benefits and allowances:

5.1.4 - 401(a) Defined Contribution Retirement Plan. City will contribute Five Thousand Dollars ($5,000) annually, prorated and contributed on the City’s normal paydays, to a 401(a) retirement plan account established for Milton. Milton will make any additional contributions required under the plan, if any, and may make additional voluntary contributions, if permitted.
SECTION 3. Except as herein modified, all other provisions of the Contract, including any exhibits and subsequent amendments thereto, shall remain in full force and effect.

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

ATTEST:

_____________________________
Deputy City Clerk

_____________________________
Mayor

Dated:_____________________

APPROVED AS TO FORM:

_____________________________
City Attorney

_____________________________
LESLEY MILTON

Dated:_____________________

Attachments:

EXHIBIT A: EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PALO ALTO AND LESLEY MILTON
Title: Potential Nomination of a Council Member to Serve on the Board of Directors of the Santa Clara Valley Transportation Authority (VTA) for a Two-Year Term Beginning January 2023

From: Lesley Milton, City Clerk

Recommendation
Staff recommends Council discussion and potential action regarding a nomination to the Board of Directors of the Santa Clara County Valley Transportation Authority (VTA).

Background
VTA has adopted an Administrative Code that allocates VTA Board of Directors seats to the County’s smaller cities by group. Palo Alto is a member of Group 2, which also includes Mountain View, Los Altos, and Los Altos Hills. Under VTA rules, each group of cities may decide for itself how to allocate its Board seat. The VTA Code provides that “Appointing authorities are strongly encouraged, where possible, to: (1) appoint individuals with appropriate experience and qualifications in transportation; (2) ensure that there is sufficient remaining time in the elected official’s term of office to allow full completion of their term as a Director; and (3) reappoint representatives to consecutive terms.” (VTA Admin Code 2-14.)

The Group 2 cities have followed a practice of coordinating through a Working Group, which consists of the member cities’ appointees to the VTA Policy Advisory Committee (PAC). The Working Group developed a “Procedure for Appointment of Board Member Representation and Expectations of the Board Member” to provide a structure for selecting Group 2’s VTA Board Member. The Procedure (attached) provides for the Group 2 cities to rotate the VTA Board seat. The Board member and an alternate are selected through a two-part process. First, the council whose turn is up nominates a member at a public meeting of that council. Second, the Group 2 Working Group either votes to ratify the nomination or reject it, in which case the opportunity returns (once) to the nominating city for another nomination.

The Procedures include the following comments on qualifications:
The Group 2 Procedures also include the following provision:

Re-election: By November 1 of the election year, the current Board member shall notify the working group of whether they intend to seek additional time or to extend current term, not to exceed 4 years. If the member is eligible to complete the upcoming board term, than that person may be considered. If the sitting Board member is not eligible or does not wish to seek additional time, then the nominees shall be provided as described below.

The VTA Board member rotation passed to Palo Alto for the two-year term beginning January 2021. Palo Alto nominated Mayor Burt, who was approved by the Group 2 Working Group and is currently serving on the VTA Board with a term that concludes at the end of 2022.

Discussion
The Council may wish to make a nomination to the Group 2 Working Group for the two-year VTA Board term beginning in January 2023.

As the Council is aware, VTA issues are vitally important to Palo Alto and require diligent engagement and coordination with our neighboring cities. Key concerns include north county bus service, and the allocation of Measure B sales tax funds for grade separations and other uses.

Resource Impact:
No impact on resources due to this action is expected.
ATTACHMENTS:

- Attachment11.a: VTA By-Laws (PDF)
VTA “North County Cities Group” (aka Group 2 Cities)
Procedure for Appointment of Board Member Representation and
Expectations of the Board Member

Background: The VTA Board of Directors sets VTA policy. The Board has 18 members and ex-officio members, all of whom are elected officials appointed to serve on the Board by the jurisdictions they represent. Fifteen Directors are city council members and three are County Supervisors. Twelve Directors serve as voting members and there are six Directors who serve as alternates. Group 2 Cities (aka North County Cities) has one voting member of the Board and one alternate.

The purpose of this document is to define the procedures for appointing the Group2 Cities Board Member and Alternate and to provide expectation of the appointees as it relates to Group 2.

Membership: The Group 2 Cities Working Group is composed of the VTA Policy Advisory Committee (PAC) members and their alternates who represent the cities of Mountain View, Palo Alto, Los Altos, and Los Altos Hills, as well as the Group 2 VTA board member. PAC and Board Alternates are also encouraged to attend. Should the PAC position for any of these cities be vacant at the time of election, that city council appoint a councilmember to participate.

Voting Membership: PAC members who represent the Group 2 cities shall be the voting members of the working group. Should the PAC position for any of these cities be vacant at the time of the election, that city council appoint a councilmember to participate in the election. Should the PAC member for any city be unavailable at the time of the election, but the PAC Alternative is available, the Alternate may vote on behalf of their city.

Appointment of VTA Board Member.

VTA Board member’s term is a minimum of 2 years and a maximum of 4 years. The appointment of the Groups 2 board is made through an election process that takes place every 3 years or when determine by a majority of the Group, and is guided by a nomination rotation that gives opportunity to the next city in the rotation.

Election Time Frame: No earlier than November and no later than December of every 3rd year, or as needed by a majority of the Group

City Rotation: Nominations may rotate in the prescribed order rotation so as to give each city an opportunity to have a representative serve at the VTA Board level or unless voted on by PAC members to amend rotation. The order shall be:

Mountain View
Palo Alto
Los Altos Hills
Los Altos and so on.
Qualification and Consideration of the Nominees: Nominees must be incumbent city councilmembers who will not face a term limit (1) before the end of the VTA Board term under consideration.

In order to satisfy the enabling legislation’s requirement that “the appointing powers shall appoint individuals who have expertise, experience, or knowledge to transportation issues,” each nominee must meet at least 2 of the following criteria:

1. At least one years’ service on the VTA Board with in the last 4 years
2. At least one year’s service on a policy advisory body that reports directly to the VTA (Policy Advisory Committee, Policy Advisory Board, the Citizens Advisory Committee and has 80% attendance.
3. Any other transportation policy credential deemed relevant by the majority of the Group 2 Cites as meeting the intent of the experience requirement with in the last 4 years.
4. Demonstrate working knowledge of VTA.

A VTA Board member may not serve simultaneously on the PAC in any capacity, but an Alternate member may simultaneously serve on the PAC.

Re-election: By November 1 of the election year, the current Board member shall notify the working group of weather they intend to seek additional time or to extend current term, not to exceed 4 years. If the member is eligible to complete the upcoming board term, than that person may be considered. If the sitting Board member is not eligible or does not wish to seek additional time, then the nominees shall be provided as described below.

Board Member Nomination Process: The City Council of the PAC member whose turn it is to nominate (“nominating city”) may nominate up to two of its qualified councilmembers for the VTA Board. The nominees can be put forth simultaneously or serially ( in the event that the first nominee is not elected). A nominating city with no qualified councilmember may not make a nomination. The nomination city also has the option of declining to nominate any of its councilmembers. In the case of no eligible candidates or the nomination city declines to make nomination, the option to nominate shall pass to the next city in the rotation. The nomination city shall notify the group of whether it intends to nominate a candidate by November 1 of the election year. The choice of who to nominate will be at the discretion of the nominating city.

Nominees must be affirmed by a majority of the City’s Council. Each city will have the opportunity to put forth two nominees for consideration. If neither succeeds, then the nomination process shall pass to the next city in order.

1 Term limit refers to the statutory limit on the number of years of consecutive terms an official may serve in their elected capacity.
Alternate Board Member Nomination Process: Alternate Board members may be put forth by any city provided the person meets the qualifications noted below and the Alternate Board member does not come from the same city as the Board Member. The group shall give consideration selecting someone from the city next in the rotation. It is desirable that in addition to the qualifications below that the alternate to be eligible to become the Board Member at a future election.

Meeting of the Working Group for Purpose of Election: A meeting of the Group 2 membership shall be convened for the purpose of electing/reelection the VTA Board member and Alternate.

Quorum: Representatives from at least three of the Group 2 cities must be present in order for an election to proceed.

Presentations: Nominees will be given equal opportunities to present argument for their election during the meeting and before the election is held. The length of time per nominee will be three minutes.

Election Process: Election to the Board shall be accomplished by a show of hands of the voting members. Each city will have one vote. A majority vote constitutes a successful election.

The group will first vote on any member seeking to extend term, no longer than a combine 4 years. If re-election is successful, than the group shall move on to selecting an Alternative. If unsuccessful, the group shall consider the nominees from the nominating city. Voting shall continue on each proposed nominee until a Board member and Alternate are selected.

Vacancies: Should the Board member resign or cease to be a city councilmember, that seat shall be declared vacant. The seat shall remain with the current city and be filled by a selection of the current city council. That person will serve the remaining of the existing term.

Expectations of the VTA Board Member
The VTA Board member shall keep the VTA Group 2 Cities Working Group apprised of items coming before the VTA Board, facilitate communications with the Group, and help build consensus with respect to policy matters the Group determines to be relevant to the Member Agency or VTA. The VTA Board member is the Chairperson of Group 2 Cities.

Amendments
This document may be amended by a majority of the VTA Group 2 Cities Working Group. A meeting of the North County Board and PAC shall be convened as necessary in order to evaluate the fairness of the selection process and the quality of the Board members.