



REGULAR MEETING AGENDA

Date: 6/13/2023
Time: 6:00 p.m.
Locations: [Zoom.us/join](https://zoom.us/join) – ID# 814 7839 7160 and
City Council Chambers
751 Laurel St., Menlo Park, CA 94025

City Councilmember Combs will be participating from:
621 St. Louis St.
New Orleans, LA 70130

City Councilmember Doerr will be participating from:
1001 16th Street NW
Washington, DC 20036

Members of the public can listen to the meeting and participate using the following methods. If you have issues viewing the meeting, please email the city clerk at jaherren@menlopark.gov.

How to participate in the meeting

- Submit a written comment online up to one-hour before the meeting start time:
- city.council@menlopark.gov
- Access the meeting real-time online at:
[Zoom.us/join](https://zoom.us/join) – Meeting ID 814 7839 7160
- Access the meeting real-time via telephone at:
(669) 900-6833
Meeting ID 814 7839 7160
Press *9 to raise hand to speak

Watch meeting:

- Cable television subscriber in Menlo Park, East Palo Alto, Atherton and Palo Alto:
Channel 26
- City Council Chambers

Subject to Change: The format of this meeting may be altered or the meeting may be cancelled. You may check on the status of the meeting by visiting the city website menlopark.gov. The instructions for logging on to the webinar and/or the access code is subject to change. If you have difficulty accessing the webinar, please check the latest online edition of the posted agenda for updated information (menlopark.gov/agendas)

Regular Session

- A. Call To Order**
- B. Roll Call**
- C. Agenda Review**

D. Report from Closed Session

E. Public Comment

Under “Public Comment,” the public may address the Commission on any subject not listed on the agenda. Each speaker may address the Commission once under Public Comment for a limit of three minutes. The Commission cannot act on items not listed on the agenda and, therefore, the Commission cannot respond to non-agenda issues brought up under Public Comment other than to provide general information.

F. Presentations and Proclamations

- F1. Proclamation: Recognizing Juneteenth Day ([Attachment](#))
Not a California Environmental Quality Act (CEQA) project.
- F2. Proclamation: Recognizing June 2023 as Pride Month ([Attachment](#))
Not a CEQA project.

G. Consent Calendar

- G1. Accept the City Council meeting minutes for April 25, 2023 ([Attachment](#))
Not a CEQA project.
- G2. Authorize the city manager to enter into a professional services agreement for investment advisory services ([Staff Report #23-133-CC](#))
Not a CEQA project.
- G3. Adopt a resolution approving the list of projects eligible for fiscal year 2023-24 funds from Senate Bill 1: The Road Repair and Accountability Act of 2017 ([Staff Report #23-138-CC](#))
Not a CEQA project.
- G4. Authorize the city manager to execute a construction contract to McGuire and Hester for the Haven Avenue Streetscape project ([Staff Report #23-139-CC](#))
Not a CEQA project.

H. Public Hearing

- H1. Public hearing on proposed fiscal year 2023-24 budget and capital improvement plan ([Staff Report #23-141-CC](#))
Not a CEQA project.

I. Regular Business

- I1. Adopt a resolution renewing Chapter 2.70 of the Menlo Park Municipal Code entitled military equipment use ordinance, Menlo Park Military Equipment Use Policy, and finding that the 2022 Menlo Park Police Department annual military equipment report complies with the standards of approval set forth in Menlo Park Police Department policy 708.7 and Government Code §7071(d) ([Staff Report #23-135-CC](#)) ([Presentation](#))

Not a CEQA project.

12. Waive the first reading and introduce an ordinance adding Chapter 1.15 “Administrative Citations” and amending Chapter 8.04 “Nuisances” to add additional “Enumerated” nuisances to subsection 8.04.010 ([Staff Report #23-136-CC](#)) ([Presentation](#))
Not a CEQA project.
13. Waive the first reading and introduce an ordinance adding Menlo Park Municipal Code Chapter 8.05 to require the use of zero emission landscaping equipment (ZELE) ([Staff Report #23-134-CC](#)) ([Informe de Personal #23-134-CC](#)) ([Presentation](#))
Not a CEQA project.

J. Informational Items

- J1. City Council agenda topics: June 20 – July 11 ([Staff Report #23-140-CC](#))
Not a CEQA project.
- J2. Transmittal of city attorney billing ([Staff Report #23-132-CC](#))
Not a CEQA project.
- J3. Police department quarterly update – Q1 January 2023 – March 2023 ([Staff Report #23-137-CC](#))
Not a CEQA project.

K. City Manager Report's

L. City Councilmember Reports

M. Closed Session

- M1. Closed session conference with labor negotiators pursuant to Government Code §54957.6 regarding labor negotiations with the Service Employees International Union Local 521 (SEIU), American Federation of State, County, and Municipal Employees Local 829 (AFSCME), and Confidential employees

Agency designated representatives: City Manager Justin I.C. Murphy, Administrative Services Director Brittany Mello, Assistant City Manager Stephen Stolte, City Attorney Nira Doherty, Special Counsel Charles Sakai
Not a CEQA project.

N. Adjournment

At every regular meeting of the commission, in addition to the public comment period where the public shall have the right to address the commission on any matters of public interest not listed on the agenda, members of the public have the right to directly address the commission on any item listed on the agenda at a time designated by the chair, either before or during the commission’s consideration of the item.

At every special meeting of the commission, members of the public have the right to directly address the commission on any item listed on the agenda at a time designated by the chair, either before or during consideration of the item. For appeal hearings, appellant and applicant shall each have 10 minutes for presentations.

If you challenge any of the items listed on this agenda in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Menlo Park at, or before, the public hearing.

Any writing that is distributed to a majority of the commission by any person in connection with an agenda item is a public record (subject to any exemption under the Public Records Act) and is available by request by emailing the city clerk at jaherren@menlopark.gov. Persons with disabilities, who require auxiliary aids or services in attending or participating in commission meetings, may call the City Clerk's Office at 650-330-6620.

Agendas are posted in accordance with California Government Code §54954.2(a) or §54956. Members of the public can view electronic agendas and staff reports by accessing the city website at menlopark.gov/agendas and can receive email notification of agendas by subscribing at menlopark.gov/subscribe. Agendas and staff reports may also be obtained by contacting the city clerk at 650-330-6620. (Posted: 6/8/2023)

PROCLAMATION

Recognizing Juneteenth on June 19, 2023

WHEREAS, during the Civil War, after the Union Army captured New Orleans in 1862, slave owners in Confederate states migrated to Texas with more than 150,000 enslaved Black persons, keeping them deprived of their freedom and basic dignity, even after President Abraham Lincoln issued the Emancipation Proclamation; and

WHEREAS, June 19, 1865, — nearly three years after President Lincoln declared all enslaved persons free — Major General Granger and Union Army troops marched to Galveston, Texas to enforce the Emancipation Proclamation and free the last enslaved Black Americans; and

WHEREAS, those who were freed from bondage celebrated their long-overdue emancipation June 19, and today, our Nation commemorates Juneteenth as a chance to celebrate human freedom, reflect on the grievous and ongoing legacy of slavery, and rededicate ourselves to rooting out the systemic racism that continues to plague our society as we strive to deliver the full promise of America to every American; and

WHEREAS, Juneteenth, recognized as a federal holiday in 2021 and celebrated in the Black community for over 150 years, commemorates African-American freedom, emphasizes education and achievement, symbolizes freedom, celebrates the abolishment of slavery, and reminds all of the significant contributions of African-Americans to our society; and

WHEREAS, this year, on Juneteenth, we recognize the power and resilience of Black Americans, who have endured generations of oppression in the ongoing journey toward equal justice, equal dignity, equal rights, and equal opportunity in America and pay tribute to those, then and now, who fought so long and worked so hard to make the dream of equality a reality; and

WHEREAS, this year, on Saturday, June 17, 2023, all are encouraged to join us for a Juneteenth celebration at Karl E. Clark Park, to gather together, enjoy live music and delicious food, and learn more about this most important day in the history of our Nation; and

NOW THEREFORE, BE IT PROCLAIMED that I, Jen Wolosin, Mayor of the City of Menlo Park, do hereby proclaim June 2023 as the month to celebrate Juneteenth Day in Menlo Park, California, and urge all people to become more aware and continually educated on the significance of this celebration in Black History and in the heritage of our nation.

Jen Wolosin, Mayor
June 13, 2023

PROCLAMATION

Pride Month – June 2023

WHEREAS, the City Council of Menlo Park recognizes and proclaims the month of June 2023 as Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ+) “Pride Month” throughout the City of Menlo Park; and

WHEREAS, Menlo Park joins the County of San Mateo to observe Pride Month, honor the history of the LGBTQ+ liberation movement, and to support the rights of all residents to experience equality and freedom from discrimination; and

WHEREAS, the rainbow flag is widely recognized as a symbol of pride, inclusion, and support for social movements that advocate for LGBTQ+ people in society; and

WHEREAS, all human beings are born free and equal in dignity and rights. LGBTQ+ individuals have had immeasurable impact to the cultural, civic and economic successes of our country; and

WHEREAS, the City of Menlo Park is committed to supporting visibility, dignity and equality for LGBTQ+ people in our diverse community; and

WHEREAS, while society at large increasingly supports LGBTQ+ equality, it is essential to acknowledge that the need for education and awareness remains vital to end discrimination, prejudice and violence against the LGBTQ+ community; and

WHEREAS, celebrating Pride Month influences awareness and provides support and advocacy for San Mateo County’s LGBTQ+ community, and is an opportunity to take action and engage in dialogue to strengthen alliances, build acceptance and advance equal rights; and

NOW, THEREFORE BE IT RESOLVED, that the rainbow flag, raised on June 1, recognizes and celebrates all LGBTQ+ residents whose influential and lasting contributions to our neighborhoods make Menlo Park a vibrant community in which to live, work and visit; and

NOW, THEREFORE, BE IT PROCLAIMED that I, Jen Wolosin, Mayor of the City of Menlo Park, on behalf of the City Council and City, hereby proclaim the month of June 2023 as Pride Month in support of the LGBTQ+ community and call upon members of the Menlo Park community to strive to eliminate prejudice and to embrace the beautiful rainbow of human experience that encompasses all people everywhere.

Jen Wolosin, Mayor
June 13, 2023



REGULAR MEETING MINUTES – DRAFT

Date: 4/25/2023
Time: 6:00 p.m.
Locations: Teleconference and
City Council Chambers
751 Laurel St., Menlo Park, CA 94025

A. Call To Order

Mayor Wolosin called the meeting to order at 6:04 p.m.

B. Roll Call

Present: Combs, Doerr (remote – AB 2449 Just Cause, exited at 10:58 p.m.), Nash, Taylor, Wolosin
Absent: None
Staff: City Manager Justin I. C. Murphy, City Attorney Nira F. Doherty, Assistant to the City Manager/City Clerk Judi A. Herren

C. Agenda Review

The City Council pulled item I5.

D. Report from Closed Session

No reportable action.

E. Public Comment

- Alheli spoke in support of a smoke-free multi-unit housing ordinance.
- Patrick Killelea spoke in opposition of masks and masking requirements in city facilities.
- Millie spoke in support of naming the new community center after Onetta Harris.
- Herbert Barkus spoke in opposition of overnight parking enforcement.
- Candice Buttler spoke in support of naming the new community center after Onetta Harris.
- Jennifer Fairily spoke in support of naming the new community center after Onetta Harris.
- Onetta Harris spoke in support of naming the new community center after Onetta Harris.
- Linh Dan Do spoke in support of urgent action to address climate change and requested a report on the Climate Action Plan (CAP) updates.
- Kelly Kirby spoke in support of naming the new community center after Onetta Harris.
- Chester Palesoo spoke in support of naming the new community center after Onetta Harris.
- Diane Bailey spoke in support of Love Our Earth festival and requested a report on the CAP updates
- Ken Harris spoke in support of naming the new community center after Onetta Harris and described the difference between economic and fiscal currencies.
- Raquel Harris spoke in support of naming the new community center after Onetta Harris.
- Rhona Harris spoke in support of naming the new community center after Onetta Harris.
- John McKenna spoke in support of prioritize climate change mitigation and adaptation.
- Agnes Harris spoke in support of naming the new community center after Onetta Harris.

- Sheena Marie Castro read a letter to the record related to their resignation from Menlo Park.
- Jayanta Dey spoke in support of accelerating the work on climate change.
- JT Faraji spoke in support of naming the new community center after Onetta Harris.
- Greg Goodwin spoke in support of naming the new community center after Onetta Harris.
- James Pistorino spoke in support of reviewing the CAP and city efforts of electrification and the natural gas appliances ban.
- Yahsmeen Abdusami spoke in support of naming the new community center after Onetta Harris.
- Warren Hayman spoke in support of naming the new community center after Onetta Harris.

The City Council received clarification on the status and process of the naming of the community center.

O. Closed Session

- O1. Closed session conference with labor negotiators pursuant to Government Code §54957.6 regarding labor negotiations with the Service Employees International Union Local 521 (SEIU), American Federation of State, County, and Municipal Employees Local 829 (AFSCME), and Confidential employees

Attendees: City Manager Justin I.C. Murphy, Administrative Services Director Brittany Mello, Assistant City Manager Stephen Stolte. Legal Counsel Charles Sakai

- Whit Loy, with donated time from Sokny Sy and Joanna Chen, spoke on employee pension subsidies or “cost-share” (Attachment).

The City Council received clarification on the acronyms and percentages listed in the attachment.

F. Presentations and Proclamations

- F1. Proclamation: Recognizing April 28, 2023 as National Arbor Day (Attachment)

Mayor Wolosin introduced the proclamation (Attachment).

G. Advisory Body Vacancies and Appointments

- G1. Consider applicants and make appointments to fill vacancies on various advisory bodies (Staff Report #23-098-CC)

City Clerk Judi A. Herren made a presentation (Presentation).

- Andrew Ehrich spoke in support on their serving on the Planning Commission.
- Brian Kissel spoke on their application to the Environmental Quality Commission.

The City Council discussed the voting process for the various appointments.

The City Council directed staff to pursue Option No. 3 for the Finance and Audit Committee, which included three appointments tonight, extending the recruitment period and returning to fill the remaining two vacancies.

The City Council made appointments to fill vacancies on the Complete Streets, Environmental Quality, Housing, Library, Parks and Recreation, Planning Commissions and the Finance and Audit Committee:

Planning Commission:

Andrew Ehrich – term expiring April 30, 2027

Katie Ferrick – term expiring April 30, 2027

Complete Streets Commission

Jacqui Cebrian – term expiring April 30, 2027

Ross Silverstein – term expiring April 30, 2024

Environmental Quality Commission

Brian Kissel – term expiring April 30, 2027

Eduardo Pelegri-Llopart – term expiring April 30, 2027

Finance and Audit Committee

Jeff Leroux – term expiring April 30, 2025

Matthew Normington – term expiring April 30, 2025

Carol Wong – term expiring April 30, 2025

Housing Commission

Virginia Portillo – term expiring April 30, 2027

Library Commission

Carol Orton – term expiring April 30, 2027

Jennifer Wise – term expiring April 30, 2027

Parks and Recreation Commission

Jessica Gilmartin – term expiring April 30, 2027

Wonman Lee – term expiring April 30, 2027

The City Council took a recess at 7:57 p.m.

The City Council reconvened at 8:04 p.m.

The City Council reordered the agenda.

J. Continued Public Hearing

- J1. Consider the Planning Commission's recommendation to approve the vesting tentative map extension and adopt a resolution to approve a two-year extension of a vesting tentative map to merge the existing SP-ECR/D (El Camino Real/Downtown Specific Plan) lots, abandon a portion of Alto Lane, and create a two-lot subdivision for condominium purposes, with 12 residential units, one restaurant space and up to three retail spaces on one lot in the SP-ECR/D zoning district, at 201 El Camino Real, and two townhouses on the second lot in the R-3 (Apartment) zoning district,

at 612 Cambridge Ave. (Staff Report #23-102-CC) – **Continued from March 14, 2023**

Associate Planner Matthew Pruter made a presentation (Presentation).

Applicant Nariman Teymourian made a presentation.

Mayor Wolosin opened the public hearing.

Mayor Wolosin closed the public hearing.

The City Council received clarification on the applicant’s meetings with the neighbors of the proposed project.

The City Council discussed community engagement with the property owner.

ACTION: Motion and second (Nash/ Taylor), to approve a tentative map extension request and adopt a resolution to approve a two-year extension of a vesting tentative map associated with a major subdivision to merge the existing SP-ECR/D (El Camino Real/Downtown Specific Plan) lots, abandon a portion of Alto Lane, and create a two-lot subdivision for condominium purposes, with 12 residential units, one restaurant space and up to three retail spaces on one lot in the SP-ECR/D zoning district, and two townhouses on the second lot in the R-3 (Apartment) zoning district, passed unanimously.

H. Study Session

H1. Provide direction on the Caltrain quiet zone study (Staff Report #23-097-CC)

Assistant Public Work Director Hugh Louch made the presentation (Presentation).

- John Woodell spoke in support of full grade separation.
- Amy Mushlin spoke in support of pursuing quiet zones.
- Adrian Brandt spoke in support of pursuing quiet zones and seeking funding from the California High Speed Rail Authority.
- Roland LeBrun provided information on train regulations from different agencies and grade separation.
- Marcy Abramowitz spoke in support of pursuing quiet zones.
- Sally Cole spoke in support of pursuing quiet zones.
- Adina Levin spoke in support of pursuing quiet zones.
- Jenny Michel spoke in opposition to pursuing quiet zones.

The City Council received clarification on commuter and freight train horn requirements, train crash data, bollards on the north side of tracks and potential south side mitigations, costs and possible funding, impacts to future grade separation, and the number of residential units near the tracks.

The City Council discussed the fiscal year 2023-24 budget process, impacts to timeline if direction is held until hearing the budget, safety elements, and suicide prevention signage.

The City Council directed staff to pursue an agreement with Caltrain to advance final design,

pursuing four quadrant gates at two crossings to implement a quiet zone more quickly including design work and budget impacts for all four gates, drafting a letter to seek reimbursement from California High-Speed Rail Authority, and pursuing a left-turn restrictions from Oak Grove Avenue to Merrill Street and Garwood Way including community outreach.

I. Consent Calendar

I1. Update City Councilmembers subcommittee appointments
(Staff Report #23-099-CC)

I2. Adopt a resolution certifying compliance with State housing laws to be eligible for One Bay Area Grant funding for the Middle Avenue Caltrain crossing project (Staff Report #23-096-CC)

- Adina Levin spoke on concerns related to the city’s eligibility for One Bay Area Grant funding for the Middle Avenue Caltrain crossing project.

The City Council received clarification on the city’s eligibility for One Bay Area Grant funding for the Middle Avenue Caltrain crossing project.

I3. Authorize the city manager to execute an amendment to the Belle Haven School Joint Use Agreement (Staff Report #23-095-CC)

- Pam Jones request more information on the proposed health clinic.

The City Council received clarification on the Ravenswood health clinic.

I4. Receive and file the Single Audit for the fiscal year ended June 30, 2022
(Staff Report #23-100-CC)

I5. Authorize the city manager to execute agreements with Sloan Sakai and Liebert Cassidy Whitmore for legal services related to human resources (Staff Report #23-101-CC)

The City Council discussed potentially updating the agreement term and lessening the not to exceed amount, request for qualification (RFQ) impacts to staff, and potential legal service disruption.

The City Council received clarification on the initial Sloan Sakai Yeung and Wong, LLP and Liebert Cassidy Whitmore not to exceed amounts and contract terms, as well as the triggers of an RFQ.

The City Council directed a RFQ for labor legal services to be returned to the City Council at a later time.

ACTION: Motion and second (Nash/ Taylor), authorize the city manager to execute an agreement with Sloan Sakai Yeung and Wong, LLP (Sloan Sakai) in the amount not to exceed \$175,000 and with Liebert Cassidy Whitmore (LCW) in an amount not to exceed \$100,000 for legal services related to human resources, including labor relations, employee relations, staff trainings, and workplace investigations over a three-year, two-month period to align with the end of the fiscal year, passed unanimously.

ACTION: Motion and second (Wolosin/ Doerr), to approved the consent calendar with the exception of item I5., passed unanimously.

K. Regular Business

- K1. Approve fiscal year 2023-24 budget principles, review five-year General Fund forecast (Staff Report #23-103-CC)

Administrative Services Director Brittany Mello and Interim Finance Director Marvin Davis made the presentation (Presentation).

The City Council received clarification on equity, impacts from lowering policy limits on reserve balances, and vacancy rates.

The City Council discussed equitable tools and action and revenue chart based on Districts.

The City Council directed updating the following budget principles:

- “Proactively maintain and improve existing infrastructure to minimize maintenance costs, decrease the City’s greenhouse gas emissions, and increase the City’s long-term disaster and climate resilience.”
- “Implement ordinances and City Council adopted initiatives and strategies to contribute to the quality of life in Menlo Park now and in the future.”
- “Strive to achieve City Council cost recovery goals for all fee-based services.”

The City Council also directed staff to research if amendments are needed to the reserve policy.

ACTION: Motion and second (Wolosin/ Nash), to approve budget principles with edits as presented for fiscal year 2023-24 and review the five-year General Fund forecast, passed unanimously.

ACTION: By acclamation, the City Council continued the meeting beyond 11 p.m.

L. Informational Items

- L1. City Council agenda topics: May 9 – May 23 (Staff Report #23-104-CC)
- L2. Transmittal of city attorney billing (Staff Report #23-105-CC)
- L3. Update on City’s Housing Element Update project status and next steps (Staff Report #23-106-CC)

The City Council received clarification on the status of the below market rate (BMR) administration request for proposal and future meetings and public noticing requirements.

The City Council requested an opportunity to update the BMR policy.

M. City Manager Report's

City Manager Justin Murphy reported out on Middlefield Road pilot.

N. City Councilmember Reports

City Councilmember Combs reported out on the annual egg hunt at Flood Park.

City Councilmember Nash reported out on Stanford Community Resources Group meeting.

Vice Mayor Taylor reported out on OneShoreline (Attachment), C/CAG, Peninsula Traffic Congestion Relief Alliance (Commute.org) (Attachment), and the Menlo Park Community Campus working group meetings.

City Councilmember Doerr reported out on the HEART Board Member Agency Committee and Bay Area Water Supply & Conservation Agency meetings.

Mayor Wolosin reported out on the Commute.org meeting and the Progress Seminar.

O. Closed Session

- O1. Closed session conference with labor negotiators pursuant to Government Code §54957.6 regarding labor negotiations with the Service Employees International Union Local 521 (SEIU), American Federation of State, County, and Municipal Employees Local 829 (AFSCME), and Confidential employees

Attendees: City Manager Justin I.C. Murphy, Administrative Services Director Brittany Mello, Assistant City Manager Stephen Stolte. Legal Counsel Charles Sakai

P. Adjournment

Mayor Wolosin adjourned to the closed session at 11:20 p.m.

Mayor Wolosin adjourned the meeting at 12:19 a.m.

Judi A. Herren Assistant to the City Manager/City Clerk



STAFF REPORT

City Council

Meeting Date:

6/13/2023

Staff Report Number:

23-133-CC

Consent Calendar:

Authorize the city manager to enter into a professional services agreement for investment advisory services

Recommendation

Staff recommends City Council authorize the city manager to enter into a professional services agreement with Insight Investment as the City's investment advisor (Attachment A).

Policy Issues

The fiscal year 2022-23 award authority and bid requirements requires professional service purchases in excess of the city manager's threshold of \$86,000 receive approval from the City Council (Policy #CC-21-024). Also, the Award Authority and Bid Requirement Policy (Policy #CC-19-001) indicates the mechanism to follow when procuring given dollar amounts.

Background

It is a best practice to update professional services agreements every five years to ensure the City remains competitive in the use of public funds. Staff published the attached request for proposal (RFP) (Attachment B) outlining the City's scope of service, requirements, selection process, and request for the firm's compensation schedule, including a copy of the City's investment policy. The RFP was published through the City's PlanetBids portal. Several firms had follow-up questions and staff responded to these questions through this website. The City received timely proposals from the following six firms:

- Chandler Asset Management
- Insight Investment
- Meeder Public Funds
- PFM Asset Management, LLC
- Public Trust Advisors, LLC
- RCM Robinson Capital Management, LLC

Analysis

Staff evaluated the proposals based on the firm's years of experience, size of assets managed, Economic Social Governance (ESG) scoring methodology, and fee schedule applicable to the City's portfolio size. The size of assets under a firm's management indicates the volume a firm is accustomed to handling. Relative to the firms evaluated, Insight Investment ranked second in this category. After an initial assessment of all proposals, staff conducted interviews with the three firms who met the proposal requirements: Chandler Asset Management, Insight Investment and PFM Asset Management. The remaining three firms did not include ESG scoring methodology as required in the RFPs. Of these three firms, Insight's fee schedule was the most competitive. Currently, there is no industry standard among the major rating agencies (Fitch,

Moody's, Standard & Poor's) for assigning an ESG rating to investments. Insight Investment's methodology of ranking on a scale of 1-5, with one being the best investment, has proven to be an effective tool.

Insight Investment is experienced in the industry and has been performing these services for the City since 2004. Insight Investment is a proactive partner in communicating with the City and provides portfolio management recommendations in a timely manner. Staff is kept apprised of market trends and forecasts to achieve maximum yield in accordance with the City's investment policy. Based upon the review of proposals, interview results, and a proven record of success, staff believes Insight Investment will continue to provide exceptional investment advisory services to the City.

Therefore, staff is seeking authority to enter into a three-year agreement, with two options to extend the agreement for one year at a time, for a total maximum term of five years.

Impact on City Resources

Investment advisory services to the City is budgeted annually in the non-departmental category of the General Fund. Given the current size of the City's portfolio, we anticipate annual fees of approximately \$90,000.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Investment advisory services professional services agreement
- B. RFPs – Investment Advisory Services (published Dec. 21, 2022)

Report prepared by:

Marvin Davis, Interim Finance Director

Brittany Mello, Administrative Services Director

PROFESSIONAL SERVICES AGREEMENT

City Manager's Office
701 Laurel St., Menlo Park, CA 94025
tel 650-330-6620



Agreement #:
AGREEMENT FOR SERVICES BETWEEN THE CITY OF MENLO PARK AND INSIGHT NORTH AMERICA LLC
THIS AGREEMENT made and entered into at Menlo Park, California, this _____, by and between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as "CITY," and INSIGHT NORTH AMERICA LLC, hereinafter referred to as "FIRST PARTY."
<p>WITNESSETH:</p> <p>WHEREAS, CITY desires to retain FIRST PARTY to provide certain professional services for CITY in connection with that certain project called: Request for proposal dated December 21, 2022</p> <p>WHEREAS, FIRST PARTY is licensed to perform said services and desires to and does hereby undertake to perform said services.</p> <p>NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, PROMISES AND CONDITIONS of each of the parties hereto, it is hereby agreed as follows:</p>
1. SCOPE OF WORK
In consideration of the payment by CITY to FIRST PARTY, as hereinafter provided, FIRST PARTY agrees to perform all the services as set forth in Exhibit "A," Scope of Services.
2. SCHEDULE FOR WORK
<p>FIRST PARTY's proposed schedule for the various services required pursuant to this agreement will be as set forth in Exhibit "A," Scope of Services. CITY will be kept informed as to the progress of work by written reports, to be submitted monthly or as otherwise required in Exhibit "A." Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents or other events beyond the control of the other, or the other's employees and agents.</p> <p>FIRST PARTY shall commence work immediately upon receipt of a "Notice to Proceed" from CITY. The "Notice to Proceed" date shall be considered the "effective date" of the agreement, as used herein, except as otherwise specifically defined. FIRST PARTY shall complete all the work and deliver to CITY all project related files, records, and materials within one month after completion of all of FIRST PARTY's activities required under this agreement.</p>
3. PROSECUTION OF WORK
FIRST PARTY will employ a sufficient staff to prosecute the work diligently and continuously and will complete the work in accordance with the schedule of work approved by the CITY. (See Exhibit "A," Scope of Services).

4. COMPENSATION AND PAYMENT

- A. CITY shall pay FIRST PARTY an all-inclusive fee that shall not exceed \$300,000 as described in Exhibit "A," Scope of Services. All payments shall be inclusive of all indirect and direct charges to the Project incurred by FIRST PARTY. The CITY reserves the right to withhold payment if the City determines that the quantity or quality of the work performed is unacceptable.
- B. FIRST PARTY's fee for the services as set forth herein shall be considered as full compensation for all indirect and direct personnel, materials, supplies and equipment, and services incurred by FIRST PARTY and used in carrying out or completing the work.
- C. Payments shall be monthly for the invoice amount or such other amount as approved by CITY. As each payment is due, the FIRST PARTY shall submit a statement describing the services performed to CITY. This statement shall include, at a minimum, the project title, agreement number, the title(s) of personnel performing work, hours spent, payment rate, and a listing of all reimbursable costs. CITY shall have the discretion to approve the invoice and the work completed statement. Payment shall be for the invoice amount or such other amount as approved by CITY.
- D. Payments are due upon receipt of written invoices. CITY shall have the right to receive, upon request, documentation substantiating charges billed to CITY. CITY shall have the right to perform an audit of the FIRST PARTY's relevant records pertaining to the charges.

5. EQUAL EMPLOYMENT OPPORTUNITY

- A. FIRST PARTY, with regard to the work performed by it under this agreement shall not discriminate on the grounds of race, religion, color, national origin, sex, handicap, marital status or age in the retention of sub-consultants, including procurement of materials and leases of equipment.
- B. FIRST PARTY shall take affirmative action to insure that employees and applicants for employment are treated without regard to their race, color, religion, sex, national origin, marital status or handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training including apprenticeship.
- C. FIRST PARTY shall post in prominent places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- D. FIRST PARTY shall state that all qualified applications will receive consideration for employment without regard to race, color, religion, sex, national origin, marital status or handicap.
- E. FIRST PARTY shall comply with Title VI of the Civil Rights Act of 1964 and shall provide such reports as may be required to carry out the intent of this section.
- F. FIRST PARTY shall incorporate the foregoing requirements of this section in FIRST PARTY's agreement with all sub-consultants.

6. ASSIGNMENT OF AGREEMENT AND TRANSFER OF INTEREST

- A. FIRST PARTY shall not assign this agreement, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the CITY thereto, provided, however, that claims for money due or to become due to the FIRST PARTY from the CITY under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of an intended assignment or transfer shall be furnished promptly to the CITY.
- B. In the event there is a change of more than 30 percent of the stock ownership or ownership in FIRST PARTY from the date of this agreement is executed, then CITY shall be notified before the date of said change of stock ownership or interest and CITY shall have the right, in event of such change in stock ownership or interest, to terminate this agreement upon notice to FIRST PARTY. In the event CITY is not notified of any such change in stock ownership or interest, then upon knowledge of same, it shall be deemed that CITY has terminated this agreement.

7. INDEPENDENT WORK CONTROL

It is expressly agreed that in the performance of the service necessary for compliance with this agreement, FIRST PARTY shall be and is an independent contractor and is not an agent or employee of CITY. FIRST PARTY has and shall retain the right to exercise full control and supervision of the services and full control over the employment, direction, compensation and discharge of all persons assisting FIRST PARTY in the performance of FIRST PARTY's services hereunder. FIRST PARTY shall be solely responsible for its own acts and those of its subordinates and employees.

8. CONSULTANT QUALIFICATIONS

It is expressly understood that FIRST PARTY is licensed and skilled in the professional calling necessary to perform the work agreed to be done by it under this agreement and CITY relies upon the skill of FIRST PARTY to do and perform said work in a skillful manner usual to the profession. The acceptance of FIRST PARTY's work by CITY does not operate as a release of FIRST PARTY from said understanding.

9. NOTICES

All notices hereby required under this agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid or by overnight courier service. Notices required to be given to CITY shall be addressed as follows:

Brittany Mello
 Administrative Services Department
 City of Menlo Park
 701 Laurel St.
 Menlo Park, CA 94025
 650-330-6675
 bkmello@menlopark.gov

Notices required to be given to FIRST PARTY shall be addressed as follows:

Insight North America LLC
 200 Park Avenue
 New York, NY 10166
 clientservicena@insightinvestment.com

Provided that any party may change such address by notice, in writing, to the other party and thereafter notices shall be addressed and transmitted to the new address.

10. HOLD HARMLESS

The FIRST PARTY shall defend, indemnify and hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants from all claims, suits or actions that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the FIRST PARTY brought for, or on account of, injuries to or death of any person or damage to property resulting from the performance of any work required by this agreement by FIRST PARTY, its officers, agents, employees and servants. Nothing herein shall be construed to require the FIRST PARTY to defend, indemnify or hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants against any responsibility to liability in contravention of Section 2782.8 of the California Civil Code.

11. INSURANCE

- A. FIRST PARTY shall not commence work under this agreement until all insurance required under this Section has been obtained and such insurance has been approved by the City, with certificates of insurance evidencing the required coverage.
- B. There shall be a contractual liability extending the FIRST PARTY's coverage to include the contractual liability assumed by the FIRST PARTY pursuant to this agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the CITY, at the address shown in Section 9, of any pending cancellation of the policy. FIRST PARTY shall notify CITY of any pending change to the policy. All certificates shall be filed with the City.
1. Workers' compensation and employer's liability insurance:
The FIRST PARTY shall have in effect during the entire life of this agreement workers' compensation and Employer's Liability Insurance providing full statutory coverage. In signing this agreement, the FIRST PARTY makes the following certification, required by Section 18161 of the California Labor Code: "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this agreement" (not required if the FIRST PARTY is a Sole Proprietor).
 2. Liability insurance:
The FIRST PARTY shall take out and maintain during the life of this agreement such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this agreement from any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the FIRST PARTY's operations under this agreement, whether such operations be by FIRST PARTY or by any sub-consultant or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be not less than one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) in aggregate, or one million dollars (\$1,000,000) combined single limit bodily injury and property damage for each occurrence. FIRST PARTY shall provide the CITY with acceptable evidence of coverage. FIRST PARTY shall maintain Automobile Liability Insurance pursuant to this agreement in an amount of not less than one million dollars (\$1,000,000) for each accident combined single limit or not less than one million dollars (\$1,000,000) for any one (1) person, and one million dollars (\$1,000,000) for any one (1) accident, and Three Hundred Thousand Dollars, (\$300,000) property damage.
 3. Professional liability insurance:
FIRST PARTY shall maintain a Certificate of Insurance of professional liability insurance, protecting it against claims arising out of the negligent acts, errors, or omissions of FIRST PARTY pursuant to this agreement, in the amount of not less than one million dollars (\$1,000,000) per claim and in the aggregate. Said professional liability insurance is to be kept in force for not less than one (1) year after completion of services described herein.
- C. CITY and its subsidiary agencies, and their officers, agents, employees and servants shall be named as additional insured on any such Certificate of Insurance of Commercial General Liability and Automobile Liability Insurance, (but not for the Professional Liability and workers' compensation), which shall also contain a provision that the insurance afforded thereby to the CITY, its subsidiary agencies, and their officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy, and that if the CITY, its subsidiary agencies and their officers and employees have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.
- D. In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, CITY, at its option, may, notwithstanding any other provision of this agreement to the contrary, immediately declare a material breach of this agreement and suspend all further work pursuant to this agreement.
- E. Before the execution of this agreement, any deductibles or self-insured retentions must be declared to and approved by CITY.

12. PAYMENT OF PERMITS/LICENSES

Contractor shall obtain any license, permit, or approval if necessary from any agency whatsoever for the work/services to be performed, at his/her own expense, before commencement of said work/services or forfeit any right to compensation under this agreement.

13. RESPONSIBILITY AND LIABILITY FOR SUB-CONSULTANTS AND/OR SUBCONTRACTORS

Approval of or by CITY shall not constitute nor be deemed a release of responsibility and liability of FIRST PARTY or its sub-consultants and/or subcontractors for the accuracy and competency of the designs, working drawings, specifications or other documents and work, nor shall its approval be deemed to be an assumption of such responsibility by CITY for any defect in the designs, working drawings, specifications or other documents prepared by FIRST PARTY or its sub-consultants and/or subcontractors.

14. OWNERSHIP OF WORK PRODUCT

Work products of FIRST PARTY for this project, which are delivered under this agreement or which are developed, produced and paid for under this agreement, shall become the property of CITY. The reuse of FIRST PARTY's work products by City for purposes other than intended by this agreement shall be at no risk to FIRST PARTY.

15. REPRESENTATION OF WORK

Any and all representations of FIRST PARTY, in connection with the work performed or the information supplied, shall not apply to any other project or site, except the project described in Exhibit "A" or as otherwise specified in Exhibit "A."

16. TERMINATION OF AGREEMENT

- A. CITY may give thirty (30) days written notice to FIRST PARTY, terminating this agreement in whole or in part at any time, either for CITY's convenience or because of the failure of FIRST PARTY to fulfill its contractual obligations or because of FIRST PARTY's change of its assigned personnel on the project without prior CITY approval. Upon receipt of such notice, FIRST PARTY shall:
1. Immediately discontinue all services affected (unless the notice directs otherwise); and
 2. Deliver to the CITY all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated or produced by FIRST PARTY in performing work under this agreement, whether completed or in process.
- B. If termination is for the convenience of CITY, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- C. If the termination is due to the failure of FIRST PARTY to fulfill its agreement, CITY may take over the work and prosecute the same to completion by agreement or otherwise. In such case, FIRST PARTY shall be liable to CITY for any reasonable additional cost occasioned to the CITY thereby.
- D. If, after notice of termination for failure to fulfill agreement obligations, it is determined that FIRST PARTY had not so failed, the termination shall be deemed to have been effected for the convenience of the CITY. In such event, adjustment in the contract price shall be made as provided in Paragraph B of this Section.
- E. The rights and remedies of the CITY provided in this Section are in addition to any other rights and remedies provided by law or under this agreement.
- F. Subject to the foregoing provisions, the CITY shall pay FIRST PARTY for services performed and expenses incurred through the termination date.

G. The FIRST PARTY may give 30 days written notice to CITY, terminating this Agreement in whole or in part, at any time.

17. INSPECTION OF WORK

It is FIRST PARTY's obligation to make the work product available for CITY's inspections and periodic reviews upon request by CITY.

18. COMPLIANCE WITH LAWS

It shall be the responsibility of FIRST PARTY to comply with all State and Federal Laws applicable to the work and services provided pursuant to this agreement, including but not limited to compliance with prevailing wage laws, if applicable.

19. BREACH OF AGREEMENT

- A. This agreement is governed by applicable federal and state statutes and regulations. Any material deviation by FIRST PARTY for any reason from the requirements thereof, or from any other provision of this agreement, shall constitute a breach of this agreement and may be cause for termination at the election of the CITY.
- B. The CITY reserves the right to waive any and all breaches of this agreement, and any such waiver shall not be deemed a waiver of any previous or subsequent breaches. In the event the CITY chooses to waive a particular breach of this agreement, it may condition same on payment by FIRST PARTY of actual damages occasioned by such breach of agreement.

20. SEVERABILITY

The provisions of this agreement are severable. If any portion of this agreement is held invalid by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect unless amended or modified by the mutual consent of the parties.

21. CAPTIONS

The captions of this agreement are for convenience and reference only and shall not define, explain, modify, limit, exemplify, or aid in the interpretation, construction, or meaning of any provisions of this agreement.

22. LITIGATION OR ARBITRATION

In the event that suit or arbitration is brought to enforce the terms of this agreement, the prevailing party shall be entitled to litigation costs and reasonable attorneys' fees. The Dispute Resolution provisions are set forth on Exhibit "B," 'Dispute Resolution' attached hereto and by this reference incorporated herein. The FIRST PARTY shall not be liable for any indirect, special or consequential loss or damage, any loss of profit or business opportunity, or any loss of goodwill, whether or not within the knowledge or contemplation of the FIRST PARTY.

23. RETENTION OF RECORDS

Contractor shall maintain all required records for three years after the City makes final payment and all other pending matters are closed, and shall be subject to the examination and /or audit of the City, a federal agency, and the state of California.

24. TERM OF AGREEMENT

This agreement shall remain in effect for the period of July 1, 2023 through June 30, 2026 unless extended, amended, or terminated in writing by CITY.

25. ENTIRE AGREEMENT

This document constitutes the sole agreement of the parties hereto relating to said project and states the rights, duties, and obligations of each party as of the document's date. Any prior agreement, promises, negotiations, or representations between parties not expressly stated in this document are not binding. All modifications, amendments, or waivers of the terms of this agreement must be in writing and signed by the appropriate representatives of the parties to this agreement.

26. STATEMENT OF ECONOMIC INTEREST

Consultants, as defined by Section 18701 of the Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations, are required to file a Statement of Economic Interests with 30 days of approval of a contract services agreement with the City of its subdivisions, on an annual basis thereafter during the term of the contract, and within 30 days of completion of the contract.

Based upon review of the Consultant's Scope of Work and determination by the City Manager, it is determined that Consultant IS NOT required to file a Statement of Economic Interest. A statement of Economic Interest shall be filed with the City Clerk's office no later than 30 days after the execution of the agreement.

27. THIRD PARTY CUSTODIAL

CITY shall select a custodian (the "Custodian") to hold the portfolio assets in safekeeping for CITY and to take all necessary steps to settle purchases, sales and other transactions under this Agreement made by FIRST PARTY, including delivery of certificates, payment of funds, collection of income, dividends, and other distributions, and such other acts as may be necessary to fulfill such custodial responsibilities.

FIRST PARTY shall not have custody, possession or responsibility for the custody of the assets (including for purposes of the 'custody rule' under Rule 206(4)-2 of the Advisers Act), and shall not be liable for any act or omission of the Custodian.

CITY shall be solely responsible for all fees involved with any custodial arrangements. CITY acknowledges that the Custodian's statements are the official books and records of the portfolio. FIRST PARTY shall give notice and proper instructions with respect to transactions in such reasonable manner as shall be agreed upon with the Custodian and CITY. In the event of a conflict between the provisions of this Agreement and the custody agreement between the Custodian and CITY, the terms of this Agreement shall control. CITY acknowledges and agrees FIRST PARTY has not recommended, requested or required the use of Custodian to CITY. CITY acknowledges that the Custodian's statements are the official books and records of the portfolio.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

FOR FIRST PARTY:

Signature

Date

Printed name

Title

Tax ID#

APPROVED AS TO FORM:

Nira F. Doherty, City Attorney

Date

FOR CITY OF MENLO PARK:

Justin I.C. Murphy, City Manager

Date

ATTEST:

Judi A. Herren, City Clerk

Date

EXHIBIT "A" – SCOPE OF SERVICES

A1. SCOPE OF WORK

FIRST PARTY agrees to provide consultant services for CITY's Administrative Services Department. In the event of any discrepancy between any of the terms of the FIRST PARTY's proposal and those of this agreement, the version most favorable to the CITY shall prevail. FIRST PARTY shall provide the following services:

Provide consultant services set forth in Exhibit A -1, attached hereto.

FIRST PARTY agrees to perform these services as directed by the CITY in accordance with the standards of its profession and CITY's satisfaction.

A2. COMPENSATION

CITY shall pay FIRST PARTY an all-inclusive fee as described in Exhibit "A," Scope of Services. All payments, shall be inclusive of all indirect and direct charges to the Project incurred by FIRST PARTY. The CITY reserves the right to withhold payment if the City determines that the quantity or quality of the work performed is unacceptable.

FIRST PARTY's fee for the services as set forth herein shall be considered as full compensation for all indirect and direct personnel, materials, supplies and equipment, and services incurred by FIRST PARTY and used in carrying out or completing the work.

Payments shall be monthly for the invoice amount or such other amount as approved by CITY. As each payment is due, the FIRST PARTY shall submit a statement describing the services performed to CITY. This statement shall include, at a minimum, the project title, agreement number, the title(s) of personnel performing work, hours spent, payment rate, and a listing of all reimbursable costs. CITY shall have the discretion to approve the invoice and the work completed statement. Payment shall be for the invoice amount or such other amount as approved by CITY.

Payments are due upon receipt of written invoices. CITY shall have the right to receive, upon request, documentation substantiating charges billed to CITY. CITY shall have the right to perform an audit of the FIRST PARTY's relevant records pertaining to the charges.

A3. SCHEDULE OF WORK

FIRST PARTY'S proposed schedule for the various services required will be set forth in Exhibit A-1.

A4. CHANGES IN WORK -- EXTRA WORK

In addition to services described in Section A1, the parties may from time to time agree in writing that FIRST PARTY, for additional compensation, shall perform additional services including but not limited to:

- Change in the services because of changes in scope of the work.
- Additional tasks not specified herein as required by the CITY.

The CITY and FIRST PARTY shall agree in writing to any changes in compensation and/or changes in FIRST PARTY's services before the commencement of any work. If FIRST PARTY deems work he/she has been directed to perform is beyond the scope of this agreement and constitutes extra work, FIRST PARTY shall immediately inform the CITY in writing of the fact. The CITY shall make a determination as to whether such work is in fact beyond the scope of this agreement and constitutes extra work. In the event that the CITY determines that such work does constitute extra work, it shall provide compensation to the FIRST PARTY in accordance with an agreed cost that is fair and equitable. This cost will be mutually agreed upon by the CITY and FIRST PARTY. A supplemental agreement providing for such compensation for extra work shall be negotiated between the CITY and the FIRST PARTY. Such supplemental agreement shall be executed by the FIRST PARTY and may be approved by the City Manager upon recommendation of the Administrative Services Director.

A5. BILLINGS

FIRST PARTY's bills shall include the following information: A brief description of services performed, project title and the agreement number; the date the services were performed; the number of hours spent and by whom; the current contract amount; the current invoice amount; Except as specifically authorized by CITY, FIRST PARTY shall not bill CITY for duplicate services performed by more than one person. In no event shall FIRST PARTY submit any billing for an amount in excess of the maximum amount of compensation provided in Section A2.

The expenses of any office, including furniture and equipment rental, supplies, salaries of employees, telephone calls, postage, advertising, and all other expenses incurred by FIRST PARTY in the performances of this agreement shall be incurred at the FIRST PARTY's discretion. Such expenses shall be FIRST PARTY's sole financial responsibility.

EXHIBIT "B" - DISPUTE RESOLUTION

- B1.0** All claims, disputes and other matters in question between the FIRST PARTY and CITY arising out of, or relating to, the contract documents or the breach thereof, shall be resolved as follows:
- B2.0 Mediation**
- B2.1** The parties shall attempt in good faith first to mediate such dispute and use their best efforts to reach agreement on the matters in dispute. After a written demand for non-binding mediation, which shall specify in detail the facts of the dispute, and within ten (10) days from the date of delivery of the demand, the matter shall be submitted to a mutually agreeable mediator. The Mediator shall hear the matter and provide an informal opinion and advice, none of which shall be binding upon the parties, but is expected by the parties to help resolve the dispute. Said informal opinion and advice shall be submitted to the parties within twenty (20) days following written demand for mediation. The Mediator's fee shall be shared equally by the parties. If the dispute has not been resolved, the matter shall be submitted to arbitration in accordance with Paragraph B3.1.
- B3.0 Arbitration**
- B3.1** Any dispute between the parties that is to be resolved by arbitration as provided in Paragraph B2.1 shall be settled and decided by arbitration conducted by the American Arbitration Association in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, as then in effect, except as provided below. Any such arbitration shall be held before three arbitrators who shall be selected by mutual agreement of the parties; if agreement is not reached on the selection of the arbitrators within fifteen (15) days, then such arbitrator(s) shall be appointed by the presiding Judge of the court of jurisdiction of the agreement.
- B3.2** The provisions of the Construction Industry Arbitration Rules of the American Arbitration Association shall apply and govern such arbitration, subject, however to the following:
- B3.3** Any demand for arbitration shall be writing and must be made within a reasonable time after the claim, dispute or other matter in question as arisen. In no event shall the demand for arbitration be made after the date that institution of legal or equitable proceedings based on such claim, dispute or other matter would be barred by the applicable statute of limitations.
- B3.4** The arbitrator or arbitrators appointed must be former or retired judges, or attorneys at law with last ten (10) years' experience in construction litigation.
- B3.5** All proceedings involving the parties shall be reported by a certified shorthand court reporter, and written transcripts of the proceedings shall be prepared and made available to the parties.
- B3.6** The arbitrator or arbitrators must be made within and provide to the parties factual findings and the reasons on which the decisions of the arbitrator or arbitrators is based.
- B3.7** Final decision by the arbitrator or arbitrators must be made within ninety (90) days from the date of the arbitration proceedings are initiated.
- B3.8** The prevailing party shall be awarded reasonable attorneys' fees, expert and non-expert witness costs and expenses, and other costs and expenses incurred in connection with the arbitration, unless the arbitrator or arbitrators for good cause determine otherwise.
- B3.9** Costs and fees of the arbitrator or arbitrators shall be borne by the non-prevailing party, unless the arbitrator or arbitrators for good cause determine otherwise.
- B3.10** The award or decision of the arbitrator or arbitrators, which may include equitable relief, shall be final, and judgment may be entered on it in accordance with applicable law in any court having jurisdiction over the matter.

Investment advisory services professional services agreement

Exhibit A



Scope of services

The Investment Advisor shall be a registered Investment Advisor as defined and regulated by the Securities and Exchange Commission (SEC) and shall be registered in the state of California (State). The Investment Advisor shall be either independent of any financial institution or securities brokerage firm or shall fully disclose any relationships with such financial institution and/or securities brokerage firm and shall describe the length and extent of such relationship. Specific responsibilities of the selected investment adviser will include, but are not limited to the following:

- Advise the City on all matters pertaining to the investment of funds.
- Assist the City with cash flow/maturity analysis.
- Provide non-discretionary investment advisory services:
- Execute investment trades on behalf of the City in accordance with the Investment Policy, all applicable statutes and bond covenants, if applicable.
- Solicit competitive quotes from financial institutions and broker/dealers for permitted investment securities and maintain written documentation of such quotes for review by the City, upon request.
- Interface with the City's custodian and staff to assure the coordination of investments, delivery of securities and availability of funds as needed. (All securities will be held by a third party custodian in the name of the City and all transactions will settle on a "delivery versus payment" basis. The advisor will not provide custodial services or safekeeping.)
- Monitor the portfolio in relation to the investment market to determine if investments should be repositioned.
- Monitor the credit worthiness of financial institutions and investments in the portfolio.
- Provide input regarding the appropriate measurement of portfolio performance and benchmarks to assess performance.
- Provide monthly reports on investment activity, earnings and the market value of the portfolio holdings. Provide quarterly reports showing the portfolio's rate of return and sufficient detail for accounting (recording and management reporting) and financial statement (auditing) purposes. Rate the City's investments based upon a reasonable Environmental, Social, Governance (ESG) methodology.
- Annually, review the City's Investment Policy and make recommendations for changes as appropriate.
- Communicate regularly with City staff on investment decisions and strategy.
- Provide information regarding current and forecasted market and economic conditions, as needed.
- Attend meetings with City staff, Finance and Audit Committee, and City Council as requested.

This scope of work is a general guide to the work the city expects to be performed and is not a complete listing of all services that may be required or desired.

Compensation

Subject to a \$2,500 monthly minimum per portfolio, the investment advisor fees shall be billed on a monthly basis in accordance with the following amount of assets managed for any given month.

- Five basis points on the first \$150 million
- Three basis points over \$150 million

RFP – INVESTMENT ADVISORY SERVICES

Mary Morris-Mayorga
Administrative Services Director – Retired Annuitant
mamayorga@menlopark.gov



Purpose

The City of Menlo Park seeks proposals for investment advisory services of the City's investment portfolio and its related operations from qualified firms.

Background

The City of Menlo Park is a city of beautiful, tree-lined neighborhoods and active commercial districts. Located conveniently between the major metropolitan areas of San Francisco and San Jose, Menlo Park is home to approximately 36,000 residents in its 19 square miles. Menlo Park's residents reflect a range of backgrounds and interests who tend to be actively engaged in community life. Known worldwide as the "Capital of Venture Capital," Menlo Park is well situated to benefit from and help shape new technologies and markets originating from the Silicon Valley. The city hosts such major employers as Facebook, SRI International, Intersect ENT, Grail and Pacific Biosciences of California. Menlo Park, like many communities, is one in which disparities exist. The city is committed to acknowledging those disparities, as well as the history that produced them, and improving the quality of life of all residents.

Mission statement

"It is the mission of the city government to ensure that Menlo Park is a desirable and vibrant community in which to live and do business and to respond to the values and priorities of the residents so as to provide for the community's current and future needs."

Organizational structure

The City of Menlo Park is a full-service general law city. A five-member City Council, elected by district, serves as the governing body of the city. The City Council appoints a city manager to serve as the chief executive officer of the city and is responsible for its day-to-day operations. The City Council also appoints the city attorney. Fire services in Menlo Park and surrounding communities are delivered by the Menlo Park Fire Protection District, an independent special district.

The City's fiscal year begins July 1 and ends June 30. For Fiscal Year 2022-23, the City of Menlo Park has a total adopted budget of approximately \$123.6 million for all funds of which the General Fund makes up approximately \$80.4 million of that total. While City operations generate revenue from various public services, such as licensing, permitting and building activity, the three primary sources of revenue for the General Fund are sales tax, property tax and transient occupancy tax (TOT). Visit menlopark.gov/budget for the most recent City Operating and Capital Improvement Program Budget and the Annual Comprehensive Financial Report (ACFR).

RFP schedule

Listed below are the events and target dates. The City reserves the right to change these events and dates at any time.

RFP issued	Dec. 21, 2022
Proposals due	5 p.m., Jan. 17, 2023
Finalist notified	Jan. 23, 2023
Contract awarded	Feb. 14, 2023

Scope of services

The City of Menlo Park is seeking proposals from qualified firms interested in providing investment advisory services for the City's investment portfolio which has a current value of approximately \$173 million. Investments are guided by the City's Investment Policy (Attachment A) in accordance with the objectives: preservation of invested funds; maintenance of sufficient cash to meet anticipated cash flow; and attainment of a market rate of return. Services will be provided pursuant to the City's standard professional services agreement (Attachment B).

The Investment Advisor shall be a registered Investment Advisor as defined and regulated by the Securities and Exchange Commission (SEC) and shall be registered in the state of California (State). The Investment Advisor shall be either independent of any financial institution or securities brokerage firm or shall fully disclose any relationships with such financial institution and/or securities brokerage firm and shall describe the length and extent of such relationship. Specific responsibilities of the selected investment adviser will include, but are not limited to the following:

- Advise the City on all matters pertaining to the investment of funds.
- Assist the City with cash flow/maturity analysis.
- Provide non-discretionary investment advisory services:

- Execute investment trades on behalf of the City in accordance with the Investment Policy, all applicable statutes and bond covenants, if applicable.
- Solicit competitive quotes from financial institutions and broker/dealers for permitted investment securities and maintain written documentation of such quotes for review by the City, upon request.
- Interface with the City's custodian and staff to assure the coordination of investments, delivery of securities and availability of funds as needed. (All securities will be held by a third party custodian in the name of the City and all transactions will settle on a "delivery versus payment" basis. The advisor will not provide custodial services or safekeeping.)
- Monitor the portfolio in relation to the investment market to determine if investments should be repositioned.
- Monitor the credit worthiness of financial institutions and investments in the portfolio.
- Provide input regarding the appropriate measurement of portfolio performance and benchmarks to assess performance.
- Provide monthly reports on investment activity, earnings and the market value of the portfolio holdings. Provide quarterly reports showing the portfolio's rate of return and sufficient detail for accounting (recording and management reporting) and financial statement (auditing) purposes. Rate the City's investments based upon a reasonable Environmental, Social, Governance (ESG) methodology.
- Annually, review the City's Investment Policy and make recommendations for changes as appropriate.
- Communicate regularly with City staff on investment decisions and strategy.
- Provide information regarding current and forecast market and economic conditions, as needed.
- Attend meetings with City staff, Finance and Audit Committee, and City Council as requested.

This scope of work is a general guide to the work the city expects to be performed and is not a complete listing of all services that may be required or desired.

General requirements

The city reserves the right to reject any or all responses, to waive any informality in any responses, and to select the consulting firm that best meets the city's needs.

Responses must be submitted no later than the date and time stated in this request for proposals.

Responses shall be reviewed and rated as set forth in the selection process section of this request for proposals. The City will then determine which consulting firm best meets the city requirements. The City reserves the right to negotiate final pricing with the most qualified consulting firm.

Upon award of the contract, it is expected that the successful proposer will accept the agreement terms and conditions "as is" without modification. Any contract modifications are to be stated upfront, at the time of submittal. The proposer shall furnish the City with such additional information as the City may reasonably require. All data, documents and other products used or developed during performance of the services will remain the property of the city.

Submittal requirements

All proposals must be submitted according to the specifications in the section above. Failure to adhere to these specifications may be cause for rejection of the proposal. Proposals shall be submitted electronically through the city bid portal at menlopark.gov/RFP.

NOTE: Proposals must be received no later than 5 p.m., Tuesday, Jan. 17, 2023. All proposals received after that time will not be considered. The proposer shall submit its proposal electronically in PDF format. No paper proposals will be accepted.

The City requests that responses be organized in a logical format that is relevant to these services. The responses shall also be concise, excluding excessive or irrelevant material.

All proposals submitted to the city must contain the following minimum information:

- a. A cover letter with contact information.
- b. Company and General Information
 - Company name and address.
 - Letter of transmittal signed by an individual authorized to bind the respondent, stating that the respondent has read and will comply with all terms and conditions of the RFP.
 - General information about the primary contact who would be able to answer questions about the proposal. Include name, title, telephone number and email address of the individual.
- c. Qualifications and Experience of the firm
 - Firm Background and Organization

- Describe the organization, the type of services offered, ownership of your firm, and date founded. Specify the number of years your organization has been providing investment management services.
 - Describe the firm's sources of revenue, categorized by retail and institutional accounts.
 - Within the past three years, have there been any significant developments in your organization (changes in ownership, new business ventures)? Do you expect any changes in the near future?
 - Provide a copy of your firm's most recent audited financial statement as an appendix.
 - Is your firm a registered investment advisor under the Investment Advisor's Act of 1940? Please attach Part 2A of your most recent Form ADV as an appendix.
 - Describe any SEC, regulatory censure or litigation involving your firm, any officer or employee at any time for the last 10 years.
 - Fully describe the firm's professional/errors and omissions insurance coverage.
- d. Questions/Response to Scope of Services
- Key Proposed Personnel and Team Organization
 - Provide the name, title, phone number and email address of the primary contact person(s) assigned to this account.
 - Identify the investment professionals who will be involved in the decision-making process for the City's portfolio. Information must include:
 - Proposed role with the City;
 - Biographical information;
 - Experience working with other California public agencies;
 - Number of years of experience in this field; and
 - Number of years with your firm.
 - What is the backup if the primary portfolio manager or client contact is away?
 - Describe the firm's in-house investment research and analytical capabilities. What outside investment and market resources are used by the firm on a regular basis?
 - Describe the firm's training and education efforts to keep the firm's investment professionals informed of developments relevant to government entities.
 - Investment Philosophy/Approach
 - Describe your firm's investment philosophy for public (government) clients. Briefly describe your firm's investment management philosophy regarding duration, maturity, investment types, credit quality and yield.
 - Describe the process you would recommend for establishing the investment objectives and constraints for the City's assets.
 - Describe your firm's trading methodology and approach.
 - Describe your firm's decision-making process in terms of structure, such as committees and its membership, meeting frequency, responsibilities, integration of research ideas and portfolio management.
 - How are brokers/dealers selected? What process do you have in place to monitor brokers/dealers after they have been approved?
 - Describe your firm's credit philosophy and review process. Who at the firm is responsible for conducting credit research and monitoring?
 - Reporting/Performance Measurement
 - Describe the records you would keep, the reports you would make to the City and the frequency of those reports. Provide samples of records and reports typically provided to clients.
 - Describe how you typically report performance. Include a copy of a quarterly performance report to a client similar to the City. (You do not need to identify the client and may redact any client names within the sample report.)
 - Describe and indicate what national standards the firm uses to compute performance.
 - Control
 - Describe the procedures used to ensure that client portfolios comply with investment objectives and policies.
 - Describe the firm's security environment. Specifically cover the physical and digital security and software safeguards that you have put in place to control access to portfolio reporting systems and client account information.
 - Additional Information
 - Briefly describe any additional feature, attributes, or conditions which the City should consider in the selection process
- e. Fees
- Provide a complete fee schedule that would apply to this portfolio(s) to accomplish the requirements of the Scope of Services.
 - What additional expenses not covered through the proposed fee structure will be expected in order to implement your investment advisory services?

<ul style="list-style-type: none"> Does the firm act as a broker or as a dealer in securities or receive any other form of additional compensation (including soft dollars) related to this project aside from the direct fee paid by the City? <p>f. References</p> <ul style="list-style-type: none"> Provide at least three public agency references for which you have provided the type of services the firm is proposing to provide. Include the date the(s) the services were furnished, the client name, address, and the name and phone number of the individual the City may contact. <p>g. Required Appendices</p> <ul style="list-style-type: none"> Audited Financial Statement Resumes of Key Investment Professionals Sample Reports
<p>Selection process</p> <p>The City will determine the process by which the proposals are reviewed. Proposed fee arrangements, experience, service delivery and other qualifications will all be important selection factors. The top-ranked firms/individual may be requested to be interviewed. Interviews will allow the designated firms or individuals an opportunity to answer any questions the City may have regarding their proposals. Participation in the interviews will be at no cost to the City. The City will make the final determination of the successful firm/individual.</p> <p>The City reserves the rights and options to</p> <ul style="list-style-type: none"> Reject any or all of the submittals Waive any of the provisions in the request for proposals Issue subsequent requests for proposals Cancel the request for proposal process Waive any technical error in the responses it receives, and negotiate with any, all, or none of the respondents to the request for proposals in regard to statements or explanation of information that may reflect negatively on the consulting firm which the City may discover during the background process, i.e., disclosure of judgments or other findings against the firm or its personnel.
<p>Communications and questions</p> <p>Should discrepancies or omissions be found in this RFP or should there be a need to clarify this RFP, questions or comments regarding this RFP must be put in writing and received by the City. Written questions may be submitted before 5 p.m., Wednesday, Jan. 11, 2023, and submitted electronically through the city bid portal at menlopark.gov/RFP or via email to:</p> <ul style="list-style-type: none"> Administrative Services Director – Retired Annuitant Mary Morris-Mayorga at mamayorga@menlopark.gov Copy to: Interim Finance Director Marvin Davis at mvdavis@menlopark.gov <p>Responses from the City will be communicated in writing to all recipients of this RFP. All addenda shall become part of this RFP. The City shall not be responsible for nor be bound by any oral instructions, interpretations or explanations issued by the City.</p>
<p>Compensation</p> <p>All tasks within the enclosed Scope of Work shall be included within the proposal's fee schedule and itemized according to required and optional tasks.</p> <p>Proposals shall describe how the firm intends to bill for the services provided, special services subject to additional charges, and the rates that would be charged for those special services. If hourly billing rates would be charged and those rates would vary for different types of work, such as litigation, indicate what rates will be charged for each type of service. Proposals shall identify what charges the firm will impose for travel time.</p>
<p>Attachments</p> <p>A. City Investment Policy</p> <p>B. City's standard professional services agreement</p>

RESOLUTION NO. 6749

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
ADOPTING THE INVESTMENT POLICY FOR THE CITY AND FORMER
COMMUNITY DEVELOPMENT AGENCY TO BECOME EFFECTIVE
IMMEDIATELY**

The City of Menlo Park, acting by and through its City Council, having considered and been fully advised in the matter and good cause appearing therefore.

BE IT AND IT IS HEREBY RESOLVED by the City Council of the City of Menlo Park that the City Council does hereby adopt and approve the Investment Policy, attached hereto as Exhibit A.

I, Judi A. Herren, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing City Council resolution was duly and regularly passed and adopted at a meeting of said City Council on the twenty-eighth day of June, 2022, by the following votes:

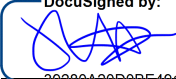
AYES: Combs, Nash, Taylor, Wolosin

NOES: None

ABSENT: Mueller

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this twenty-ninth day of June, 2022.

DocuSigned by:

39266A20D0DE484...

Judi A. Herren, City Clerk

Exhibits:
A. Investment Policy

INVESTMENT POLICY

City Council Policy #CC-22-020

Adopted June 28, 2022

Resolution No. 6749

EXHIBIT A**Purpose**

The City of Menlo Park (the "City"), incorporated in 1927, is located between San Francisco and Oakland on the North, and San Jose on the South. The city is governed by five members elected by district to City Council.

The City Council has adopted this Investment Policy (the "Policy") in order to establish the investment scope, objectives, delegation of authority, standards of prudence, reporting requirements, internal controls, eligible investments and transactions, diversification requirements, risk tolerance, and safekeeping and custodial procedures for the investment of the unexpended funds of the city. All such investments will be made in accordance with the Policy and with applicable sections of the California Government Code.

This Policy was endorsed and adopted by the City Council of the City of Menlo Park on the twenty-eighth of June 2022. It replaces any previous investment policy or investment procedures of the city.

Scope

The provisions of this Policy shall apply to all financial assets of the city and the former Community Development Agency of Menlo Park as accounted for in the city's comprehensive annual financial report, with the exception of bond proceeds, which shall be governed by the provisions of the related bond indentures or resolutions.

All cash shall be pooled for investment purposes. The investment income derived from the pooled investment account shall be allocated to the contributing funds based upon the proportion of the respective average balances relative to the total pooled balance in the investment portfolio. Investment income shall be distributed to the individual funds on a quarterly basis.

Objectives

The city's funds shall be invested in accordance with all applicable municipal codes and resolutions, California statutes, and federal regulations, and in a manner designed to accomplish the following objectives, which are listed in priority order:

1. Preservation of capital and protection of investment principal through diversification to mitigate risk.
2. Maintenance of sufficient liquidity to meet anticipated cash flows.
3. Attainment of a market value rate of return.

Delegation of authority

The management responsibility for the city's investment program is delegated annually by the City Council to the chief financial officer (the "CFO") pursuant to California Government Code Section 53607. The City's administrative services director or designee serves as the CFO. In the absence of the CFO, the finance and budget manager is authorized to conduct investment transactions. The CFO may delegate the authority to conduct investment transactions and to manage the operation of the investment portfolio to other specifically authorized staff members. The CFO shall maintain a list of persons authorized to transact securities business for the city. No person may engage in an investment transaction except as expressly provided under the terms of this Policy.

The CFO shall develop written administrative procedures and internal controls, consistent with this Policy, for the operation of the city's investment program. Such procedures shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, or imprudent actions by employees of the city.

The city may engage the support services of outside investment advisors in regard to its investment program, so long as it can be clearly demonstrated that these services produce a net financial advantage or necessary financial protection of the city's financial resources.

INVESTMENT POLICY

City Council Policy #CC-22-020

Adopted June 28, 2022

Resolution No. 6749

2

Prudence

The standard of prudence to be used for managing the city's investments shall be California Government Code Section 53600.3, the prudent investor standard which states, "When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency."

The city's overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The city recognizes that no investment is totally without risk and that the investment activities of the city are a matter of public record. Accordingly, the city recognizes that occasional measured losses may occur in a diversified portfolio and shall be considered within the context of the overall portfolio's return, provided that adequate diversification has been implemented and that the sale of a security is in the best long-term interest of the city.

The CFO and authorized investment personnel acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that the deviations from expectations are reported in a timely fashion to the City Council and appropriate action is taken to control adverse developments.

Ethic and conflicts of interest

Elected officials and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or could impair or create the appearance of an impairment of their ability to make impartial investment decisions. Employees and investment officials shall disclose to the city manager any business interests they have in financial institutions that conduct business with the city and they shall subordinate their personal investment transactions to those of the city. In addition, the city manager, the assistant city manager and the administrative services director shall file a Statement of Economic Interests each year pursuant to California Government Code Section 87203 and regulations of the Fair Political Practices Commission.

Authorized securities and transactions

All investments and deposits of the city shall be made in accordance with California Government Code Sections 16429.1, 53600-53609 and 53630-53686, except that, pursuant to California Government Code Section 5903(e), proceeds of bonds and any moneys set aside or pledged to secure payment of the bonds may be invested in securities or obligations described in the ordinance, resolution, indenture, agreement, or other instrument providing for the issuance of the bonds.

Any revisions or extensions of these code sections will be assumed to be part of this Policy immediately upon being enacted. However, in the event that amendments to these sections conflict with this Policy or past city investment practices, the city may delay adherence to the new requirements when it is deemed in the best interest of the city to do so. In such instances, after consultation with the city's attorney, the CFO will present a recommended course of action to the City Council for approval.

The city has further restricted the eligible types of securities and transactions as follows:

1. United States treasury bills, notes, bonds, or strips with a final maturity not exceeding five years from the date of trade settlement.
2. Federal agency debentures, federal agency mortgage-backed securities, and mortgage-backed securities with a final maturity not exceeding five years from the date of trade settlement.
3. Federal instrumentality (government-sponsored enterprise) debentures, discount notes, callable securities, step-up securities, and mortgage-backed securities with a final maturity not exceeding five years from the date of trade settlement. Subordinated debt may not be purchased.
4. Medium-term notes issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Medium-term notes shall have a final maturity not exceeding five years from the date of trade settlement and shall be rated at least "A" or the equivalent by a nationally recognized statistical ratings organization (NRSRO), at the time of purchase.
5. Negotiable certificates of deposit with a maturity not exceeding five years from the date of trade settlement, in state or nationally chartered banks or savings banks that are insured by the FDIC, subject to the limitations of California Government Code Section 53638. Certificates of Deposits may be purchased only from financial institutions that meet the credit criteria set forth in the section of this Policy, "Selection of Banks and Savings Banks." Depending on their maturity, Negotiable Certificates of Deposit shall have a short-term rating of at least A-1+ or

INVESTMENT POLICY

City Council Policy #CC-22-020

Adopted June 28, 2022

Resolution No. 6749

3

the equivalent by a NRSRO at the time of purchase.

6. Non-negotiable certificates of deposit and savings deposits with a maturity not exceeding five years from the date of trade settlement, in FDIC insured state or nationally chartered banks or savings banks that qualify as a depository of public funds in the State of California as defined in California Government Code Section 53630.5. Deposits exceeding the FDIC insured amount shall be secured pursuant to California Government Code Section 53652.
7. Municipal and State obligations:
 - A. Municipal bonds with a final maturity not exceeding five years from the date of trade settlement. Such bonds include registered treasury notes or bonds of any of the 50 United States and bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the states. Such obligations must be rated at least "A", or the equivalent, by a NRSRO at the time of purchase.
 - B. In addition, bonds, notes, warrants, or other evidences of indebtedness of any local agency in California, include bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency. Such obligations must be rated at least "A", or the equivalent, by a NRSRO at the time of purchase.
8. Prime commercial paper with a maturity not exceeding 270 days from the date of trade settlement with the highest ranking or of the highest letter and number rating as provided for by a NRSRO. The entity that issues the commercial paper shall meet all of the following conditions in either sub-paragraph A. or sub-paragraph B. below:
 - A. The entity shall (1) be organized and operating in the United States as a general corporation, (2) have total assets in excess of \$500 million, and (3) have debt other than commercial paper, if any, that is rated in at least the "A" category or the equivalent by an NRSRO.
 - B. The entity shall (1) be organized within the United States as a special purpose corporation, trust, or limited liability company, (2) have program-wide credit enhancements, including, but not limited to, over collateralization, letters of credit or surety bond, and (3) have commercial paper that is rated at least "A-1" or the equivalent or higher by a NRSRO.
9. Eligible banker's acceptances with a maturity not exceeding 180 days from the date of trade settlement, issued by a national bank with combined capital and surplus of at least \$250 million, whose deposits are insured by the FDIC, and whose senior long-term debt is rated at least "A" or the equivalent by a NRSRO at the time of purchase.
10. Repurchase agreements with a final termination date not exceeding 30 days collateralized by the U.S. Treasury obligations, federal agency securities, or federal instrumentality securities listed in items #1 through #3 above, with the maturity of the collateral not exceeding five years. For the purpose of this section, the term collateral shall mean purchased securities under the terms of the city's approved Master Repurchase Agreement. The purchased securities shall have a minimum market value including accrued interest of 102% of the dollar value of the funds borrowed. Collateral shall be held in the city's custodian bank, as safekeeping agent, and the market value of the collateral securities shall be marked-to-the-market daily.
Repurchase agreements shall be entered into only with banks and with broker/dealers who are recognized as Primary Dealers with the Federal Reserve Bank of New York, or with firms that have a primary dealer within their holding company structure. Repurchase agreement counterparties shall execute a city approved Master Repurchase Agreement with the city. The CFO shall maintain a copy of the city's approved Master Repurchase Agreement along with a list of the banks and broker/dealers who have executed same.
11. State of California's Local Agency Investment Fund (LAIF), pursuant to California Government Code Section 16429.1
12. Money market funds registered under the Investment Company Act of 1940 which (1) are "no-load" (meaning no commission or fee shall be charged on purchases or sales of shares); (2) have a constant daily net asset value per share of \$1.00; (3) invest only in the securities and obligations authorized in this Policy and (4) have a rating of at least "AAA" or the equivalent by at least two NRSROs.

Securities that have been downgraded to a level that is below the minimum ratings described herein may be sold or held at the city's discretion.

It is the intent of the city that the foregoing list of authorized securities and transactions be strictly interpreted. Any deviation from this list must be preapproved by resolution of the City Council.

INVESTMENT POLICY

City Council Policy #CC-22-020

Adopted June 28, 2022

Resolution No. 6749

Investment diversification

The city shall diversify its investments to avoid incurring unreasonable risks inherent in over-investing in specific instruments, individual financial institutions or maturities. Nevertheless, the asset allocation in the investment portfolio should be flexible depending upon the outlook for the economy, the securities markets, and the city's anticipated cash flow needs.

Securities shall not exceed the following maximum limits as a percentage of the total portfolio:

Type of security	Maximum percentage of the total portfolio
U.S. Treasury obligations	100%
Federal agency securities	100%†
Federal instrumentality securities†	100% †
Repurchase agreements	100%
Local government investment pools	100%
Aggregate amount of Certificates of deposit, negotiable and non-negotiable	25%
Aggregate amount of prime commercial paper*	25%
Aggregate amount of money market funds *	20%
Aggregate amount of municipal bonds*	30%
Aggregate amount of eligible banker's acceptances*	15%
Aggregate amount of medium-term notes*	30%

† No more than 20% of the city's total portfolio shall be invested in mortgage-backed securities.

*No more than 5% of the city's total portfolio shall be invested in any one issuer/financial institution and/or its affiliates.

Portfolio maturities and liquidity

To the extent possible, investments shall be matched with anticipated cash flow requirements and known future liabilities. The city will not invest in securities maturing more than five years from the date of trade settlement unless the City Council has, by resolution, granted authority to make such an investment at least three months prior to the date of investment. The sole maturity distribution range shall be from zero to five years from the date of trade settlement.

Selection of broker/dealers

The CFO shall maintain a list of broker/dealers approved for investment purposes, and it shall be the policy of the city to purchase securities only from those authorized firms. To be eligible, a firm must be licensed by the State of California as a broker/dealer as defined in Section 25004 of the California Corporations Code.

The city may engage the services of investment advisory firms to assist in the management of the portfolio and investment advisors may utilize their own list of approved Broker/Dealers. The list of approved firms shall be provided to the city on an annual basis or upon request.

In the event that an external investment advisory firm is not used in the process of recommending a particular transaction, each authorized broker/dealer shall be required to submit and annually update a city approved Broker/Dealer Information Request form which includes the firm's most recent financial statements. The CFO shall maintain a list of the broker/dealers that have been approved by the city, along with each firm's most recent broker/dealer information request form. The city may purchase commercial paper from direct issuers even though they are not on the approved broker/dealer list as long as they meet the criteria outlined in Item 8 of the authorized securities and transactions section of this Policy.

Competitive transactions

Each investment transaction shall be competitively transacted with authorized broker/dealers. At least three broker/dealers shall be contacted for each transaction and their bid and offering prices shall be recorded.

If the city is offered a security for which there is no other readily available competitive offering, the CFO will then document quotations for comparable or alternative securities.

INVESTMENT POLICY

City Council Policy #CC-22-020

Adopted June 28, 2022

Resolution No. 6749

Selection of banks and savings banks

The CFO shall maintain a list of authorized banks and savings banks that are approved to provide banking services for the city. To be eligible to provide banking services, a financial institution shall qualify as a depository of public funds in the State of California as defined in California Government Code Section 53630.5 and must be a member of the FDIC. The city shall utilize S & P Global Financial ratings to perform credit analyses on banks seeking authorization. The analysis shall include a composite rating and individual ratings of liquidity, asset quality, profitability and capital adequacy. Annually, the CFO shall review the most recent credit rating analysis reports performed for each approved bank. Banks that in the judgment of the CFO no longer offer adequate safety to the city shall be removed from the city's list of authorized banks. Banks failing to meet the criteria outlined above, or in the judgment of the CFO no longer offer adequate safety to the city, will be removed from the list. The CFO shall maintain a file of the most recent credit rating analysis reports performed for each approved bank. Credit analysis shall be performed on a semi-annual basis.

Safekeeping and custody

The CFO shall select one or more financial institutions to provide safekeeping and custodial services for the city, in accordance with the provisions of Section 53608 of the California Government Code. Custodian banks will be selected on the basis of their ability to provide services for the city's account and the competitive pricing of their safekeeping related services. The CFO shall maintain a file of the credit rating analysis reports performed semi-annually for each approved financial institution. A Safekeeping Agreement approved by the city shall be executed with each custodian bank prior to utilizing that bank's safekeeping services.

The purchase and sale of securities and repurchase agreement transactions shall be settled on a delivery versus payment basis. All securities shall be perfected in the name of the city. Sufficient evidence to title shall be consistent with modern investment, banking and commercial practices.

All investment securities purchased by the city will be delivered by book entry and will be held in third-party safekeeping by a city approved custodian bank, or its Depository Trust Company (DTC) participant account.

Portfolio performance

The investment portfolio shall be designed to attain a market rate of return throughout budgetary and economic cycles, taking into account prevailing market conditions, risk constraints for eligible securities, and cash flow requirements. The performance of the city's investments shall be compared to the average yield on the U.S. Treasury security that most closely corresponds to the portfolio's actual weighted average effective maturity. When comparing the performance of the city's portfolio, its rate of return will be computed net of all fees and expenses.

Portfolio review and reporting

Credit criteria and maximum percentages listed in this section refer to the credit of the issuing organization and/or maturity at the time the security is purchased. The city may, from time to time, be invested in a security whose rating is downgraded below the minimum ratings set forth in this Policy. In the event a rating drops below the minimum allowed rating category for that given investment type, the administrative services director shall notify the city manager and/or designee and recommend a plan of action. Appropriate documentation of such a review, along with the recommended action and final decision shall be retained for audit.

Quarterly, the CFO shall submit to the City Council a report of the investment earnings and performance results of the city's investment portfolio. The report shall include the following information:

1. Investment type, issuer, date of maturity, par value and dollar amount invested in all securities, and investments and monies held by the city;
2. A description of the funds, investments and programs;
3. A market value as of the date of the report (or the most recent valuation as to assets not valued monthly) and the source of the valuation;
4. A statement of compliance with this Policy or an explanation for non-compliance; and
5. A statement of the ability to meet expenditure requirements for six months, as well as an explanation of why money will not be available if that is the case.

Policy review

This Policy shall be adopted by resolution of the City Council annually. It shall be reviewed at least annually to ensure its consistency with the overall objectives of preservation of principal, liquidity, yield and diversification and its relevance to current law and economic trends. Any amendments to the Policy shall be reviewed by the City's Finance and Audit Committee prior to being forwarded to the City Council for approval.

INVESTMENT POLICY

City Council Policy #CC-22-020

Adopted June 28, 2022

Resolution No. 6749

Procedure history		
Action	Date	Notes
Procedure adoption	January 14, 1997	Resolution No. 4784
Procedure adoption	February 17, 1998	Resolution No. 4871
Procedure adoption	February 2, 1999	Resolution No. 5064
Procedure adoption	May 9, 2000	Adopted by minute order
Procedure adoption	February 13, 2001	Resolution No. 5283
Procedure adoption	February 5, 2002	Resolution No. 5362
Procedure adoption	June 24, 2003	Resolution No. 5457
Procedure adoption	June 20, 2004	Resolution No. 5545
Procedure adoption	August 15, 2005	Resolution No. 5616
Procedure adoption	July 25, 2006	Resolution No. 5960
Procedure adoption	July 31, 2007	Resolution No. 5759
Procedure adoption	September 23, 2008	Resolution No. 5825
Procedure adoption	September 1, 2009	Resolution No. 5886
Procedure adoption	August 31, 2010	Resolution No. 5957
Procedure adoption	September 27, 2011	Resolution No. 6028
Procedure adoption	September 18, 2012	Resolution No. 6103
Procedure adoption	October 15, 2013	Resolution No. 6171
Procedure adoption	August 19, 2014	Resolution No. 6221
Procedure adoption	August 25, 2015	Resolution No. 6286
Procedure adoption	September 13, 2016	Resolution No. 6343
Procedure adoption	August 20, 2019	Adopted by minute order
Procedure adoption	August 11, 2020	Adopted by minute order
Procedure adoption	August 17, 2021	Resolution No. 6651
Procedure adoption	June 28, 2022	Resolution No. 6749

Choose agreement type

City Manager's Office
701 Laurel St., Menlo Park, CA 94025
tel 650-330-6620



Agreement #:
AGREEMENT FOR SERVICES BETWEEN THE CITY OF MENLO PARK AND FIRST PARTY
THIS AGREEMENT made and entered into at Menlo Park, California, this _____, by and between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as "CITY," and FIRST PARTY , hereinafter referred to as "FIRST PARTY."
<p>WITNESSETH:</p> <p>WHEREAS, CITY desires to retain FIRST PARTY to provide certain professional services for CITY in connection with that certain project called: click here to enter text</p> <p>WHEREAS, FIRST PARTY is licensed to perform said services and desires to and does hereby undertake to perform said services.</p> <p>NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, PROMISES AND CONDITIONS of each of the parties hereto, it is hereby agreed as follows:</p>
1. SCOPE OF WORK
In consideration of the payment by CITY to FIRST PARTY, as hereinafter provided, FIRST PARTY agrees to perform all the services as set forth in Exhibit "A," Scope of Services.
2. SCHEDULE FOR WORK
<p>FIRST PARTY's proposed schedule for the various services required pursuant to this agreement will be as set forth in Exhibit "A," Scope of Services. CITY will be kept informed as to the progress of work by written reports, to be submitted monthly or as otherwise required in Exhibit "A." Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents or other events beyond the control of the other, or the other's employees and agents.</p> <p>FIRST PARTY shall commence work immediately upon receipt of a "Notice to Proceed" from CITY. The "Notice to Proceed" date shall be considered the "effective date" of the agreement, as used herein, except as otherwise specifically defined. FIRST PARTY shall complete all the work and deliver to CITY all project related files, records, and materials within one month after completion of all of FIRST PARTY's activities required under this agreement.</p>
3. PROSECUTION OF WORK
FIRST PARTY will employ a sufficient staff to prosecute the work diligently and continuously and will complete the work in accordance with the schedule of work approved by the CITY. (See Exhibit "A," Scope of Services).

4. COMPENSATION AND PAYMENT

- A. CITY shall pay FIRST PARTY an all-inclusive fee that shall not exceed \$**enter amount** as described in Exhibit "A," Scope of Services. All payments shall be inclusive of all indirect and direct charges to the Project incurred by FIRST PARTY. The CITY reserves the right to withhold payment if the City determines that the quantity or quality of the work performed is unacceptable.
- B. FIRST PARTY's fee for the services as set forth herein shall be considered as full compensation for all indirect and direct personnel, materials, supplies and equipment, and services incurred by FIRST PARTY and used in carrying out or completing the work.
- C. Payments shall be monthly for the invoice amount or such other amount as approved by CITY. As each payment is due, the FIRST PARTY shall submit a statement describing the services performed to CITY. This statement shall include, at a minimum, the project title, agreement number, the title(s) of personnel performing work, hours spent, payment rate, and a listing of all reimbursable costs. CITY shall have the discretion to approve the invoice and the work completed statement. Payment shall be for the invoice amount or such other amount as approved by CITY.
- D. Payments are due upon receipt of written invoices. CITY shall have the right to receive, upon request, documentation substantiating charges billed to CITY. CITY shall have the right to perform an audit of the FIRST PARTY's relevant records pertaining to the charges.

5. EQUAL EMPLOYMENT OPPORTUNITY

- A. FIRST PARTY, with regard to the work performed by it under this agreement shall not discriminate on the grounds of race, religion, color, national origin, sex, handicap, marital status or age in the retention of sub-consultants, including procurement of materials and leases of equipment.
- B. FIRST PARTY shall take affirmative action to insure that employees and applicants for employment are treated without regard to their race, color, religion, sex, national origin, marital status or handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training including apprenticeship.
- C. FIRST PARTY shall post in prominent places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- D. FIRST PARTY shall state that all qualified applications will receive consideration for employment without regard to race, color, religion, sex, national origin, marital status or handicap.
- E. FIRST PARTY shall comply with Title VI of the Civil Rights Act of 1964 and shall provide such reports as may be required to carry out the intent of this section.
- F. FIRST PARTY shall incorporate the foregoing requirements of this section in FIRST PARTY's agreement with all sub-consultants.

6. ASSIGNMENT OF AGREEMENT AND TRANSFER OF INTEREST

- A. FIRST PARTY shall not assign this agreement, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the CITY thereto, provided, however, that claims for money due or to become due to the FIRST PARTY from the CITY under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of an intended assignment or transfer shall be furnished promptly to the CITY.
- B. In the event there is a change of more than 30 percent of the stock ownership or ownership in FIRST PARTY from the date of this agreement is executed, then CITY shall be notified before the date of said change of stock ownership or interest and CITY shall have the right, in event of such change in stock ownership or interest, to terminate this agreement upon notice to FIRST PARTY. In the event CITY is not notified of any such change in stock ownership or interest, then upon knowledge of same, it shall be deemed that CITY has terminated this agreement.

7. INDEPENDENT WORK CONTROL

It is expressly agreed that in the performance of the service necessary for compliance with this agreement, FIRST PARTY shall be and is an independent contractor and is not an agent or employee of CITY. FIRST PARTY has and shall retain the right to exercise full control and supervision of the services and full control over the employment, direction, compensation and discharge of all persons assisting FIRST PARTY in the performance of FIRST PARTY's services hereunder. FIRST PARTY shall be solely responsible for its own acts and those of its subordinates and employees.

8. CONSULTANT QUALIFICATIONS

It is expressly understood that FIRST PARTY is licensed and skilled in the professional calling necessary to perform the work agreed to be done by it under this agreement and CITY relies upon the skill of FIRST PARTY to do and perform said work in a skillful manner usual to the profession. The acceptance of FIRST PARTY's work by CITY does not operate as a release of FIRST PARTY from said understanding.

9. NOTICES

All notices hereby required under this agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid or by overnight courier service. Notices required to be given to CITY shall be addressed as follows:

Department Head
Department
City of Menlo Park
701 Laurel St.
Menlo Park, CA 94025
650-330-xxxx
Email

Notices required to be given to FIRST PARTY shall be addressed as follows:

Name
Company
Address
City, State Zip
Phone
Email

Provided that any party may change such address by notice, in writing, to the other party and thereafter notices shall be addressed and transmitted to the new address.

10. HOLD HARMLESS

The FIRST PARTY shall defend, indemnify and hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants from all claims, suits or actions that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the FIRST PARTY brought for, or on account of, injuries to or death of any person or damage to property resulting from the performance of any work required by this agreement by FIRST PARTY, its officers, agents, employees and servants. Nothing herein shall be construed to require the FIRST PARTY to defend, indemnify or hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants against any responsibility to liability in contravention of Section 2782.8 of the California Civil Code.

11. INSURANCE

- A. FIRST PARTY shall not commence work under this agreement until all insurance required under this Section has been obtained and such insurance has been approved by the City, with certificates of insurance evidencing the required coverage.
- B. There shall be a contractual liability endorsement extending the FIRST PARTY's coverage to include the contractual liability assumed by the FIRST PARTY pursuant to this agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the CITY, at the address shown in Section 9, of any pending cancellation of the policy. FIRST PARTY shall notify CITY of any pending change to the policy. All certificates shall be filed with the City.
1. Workers' compensation and employer's liability insurance:
The FIRST PARTY shall have in effect during the entire life of this agreement workers' compensation and Employer's Liability Insurance providing full statutory coverage. In signing this agreement, the FIRST PARTY makes the following certification, required by Section 18161 of the California Labor Code: "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this agreement" (not required if the FIRST PARTY is a Sole Proprietor).
 2. Liability insurance:
The FIRST PARTY shall take out and maintain during the life of this agreement such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this agreement from any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the FIRST PARTY's operations under this agreement, whether such operations be by FIRST PARTY or by any sub-consultant or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be not less than one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) in aggregate, or one million dollars (\$1,000,000) combined single limit bodily injury and property damage for each occurrence. FIRST PARTY shall provide the CITY with acceptable evidence of coverage, including a copy of all declarations of coverage exclusions. FIRST PARTY shall maintain Automobile Liability Insurance pursuant to this agreement in an amount of not less than one million dollars (\$1,000,000) for each accident combined single limit or not less than one million dollars (\$1,000,000) for any one (1) person, and one million dollars (\$1,000,000) for any one (1) accident, and Three Hundred Thousand Dollars, (\$300,000) property damage.
 3. Professional liability insurance:
FIRST PARTY shall maintain a policy of professional liability insurance, protecting it against claims arising out of the negligent acts, errors, or omissions of FIRST PARTY pursuant to this agreement, in the amount of not less than one million dollars (\$1,000,000) per claim and in the aggregate. Said professional liability insurance is to be kept in force for not less than one (1) year after completion of services described herein.
- C. CITY and its subsidiary agencies, and their officers, agents, employees and servants shall be named as additional insured on any such policies of Commercial General Liability and Automobile Liability Insurance, (but not for the Professional Liability and workers' compensation), which shall also contain a provision that the insurance afforded thereby to the CITY, its subsidiary agencies, and their officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy, and that if the CITY, its subsidiary agencies and their officers and employees have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.
- D. In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, CITY, at its option, may, notwithstanding any other provision of this agreement to the contrary, immediately declare a material breach of this agreement and suspend all further work pursuant to this agreement.
- E. Before the execution of this agreement, any deductibles or self-insured retentions must be declared to and approved by CITY.

12. PAYMENT OF PERMITS/LICENSES

Contractor shall obtain any license, permit, or approval if necessary from any agency whatsoever for the work/services to be performed, at his/her own expense, before commencement of said work/services or forfeit any right to compensation under this agreement.

13. RESPONSIBILITY AND LIABILITY FOR SUB-CONSULTANTS AND/OR SUBCONTRACTORS

Approval of or by CITY shall not constitute nor be deemed a release of responsibility and liability of FIRST PARTY or its sub-consultants and/or subcontractors for the accuracy and competency of the designs, working drawings, specifications or other documents and work, nor shall its approval be deemed to be an assumption of such responsibility by CITY for any defect in the designs, working drawings, specifications or other documents prepared by FIRST PARTY or its sub-consultants and/or subcontractors.

14. OWNERSHIP OF WORK PRODUCT

Work products of FIRST PARTY for this project, which are delivered under this agreement or which are developed, produced and paid for under this agreement, shall become the property of CITY. The reuse of FIRST PARTY's work products by City for purposes other than intended by this agreement shall be at no risk to FIRST PARTY.

15. REPRESENTATION OF WORK

Any and all representations of FIRST PARTY, in connection with the work performed or the information supplied, shall not apply to any other project or site, except the project described in Exhibit "A" or as otherwise specified in Exhibit "A."

16. TERMINATION OF AGREEMENT

- A. CITY may give thirty (30) days written notice to FIRST PARTY, terminating this agreement in whole or in part at any time, either for CITY's convenience or because of the failure of FIRST PARTY to fulfill its contractual obligations or because of FIRST PARTY's change of its assigned personnel on the project without prior CITY approval. Upon receipt of such notice, FIRST PARTY shall:
1. Immediately discontinue all services affected (unless the notice directs otherwise); and
 2. Deliver to the CITY all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated or produced by FIRST PARTY in performing work under this agreement, whether completed or in process.
- B. If termination is for the convenience of CITY, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- C. If the termination is due to the failure of FIRST PARTY to fulfill its agreement, CITY may take over the work and prosecute the same to completion by agreement or otherwise. In such case, FIRST PARTY shall be liable to CITY for any reasonable additional cost occasioned to the CITY thereby.
- D. If, after notice of termination for failure to fulfill agreement obligations, it is determined that FIRST PARTY had not so failed, the termination shall be deemed to have been effected for the convenience of the CITY. In such event, adjustment in the contract price shall be made as provided in Paragraph B of this Section.
- E. The rights and remedies of the CITY provided in this Section are in addition to any other rights and remedies provided by law or under this agreement.
- F. Subject to the foregoing provisions, the CITY shall pay FIRST PARTY for services performed and expenses incurred through the termination date.

17. INSPECTION OF WORK

It is FIRST PARTY's obligation to make the work product available for CITY's inspections and periodic reviews upon request by CITY.

18. COMPLIANCE WITH LAWS

It shall be the responsibility of FIRST PARTY to comply with all State and Federal Laws applicable to the work and services provided pursuant to this agreement, including but not limited to compliance with prevailing wage laws, if applicable.

19. BREACH OF AGREEMENT

- A. This agreement is governed by applicable federal and state statutes and regulations. Any material deviation by FIRST PARTY for any reason from the requirements thereof, or from any other provision of this agreement, shall constitute a breach of this agreement and may be cause for termination at the election of the CITY.
- B. The CITY reserves the right to waive any and all breaches of this agreement, and any such waiver shall not be deemed a waiver of any previous or subsequent breaches. In the event the CITY chooses to waive a particular breach of this agreement, it may condition same on payment by FIRST PARTY of actual damages occasioned by such breach of agreement.

20. SEVERABILITY

The provisions of this agreement are severable. If any portion of this agreement is held invalid by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect unless amended or modified by the mutual consent of the parties.

21. CAPTIONS

The captions of this agreement are for convenience and reference only and shall not define, explain, modify, limit, exemplify, or aid in the interpretation, construction, or meaning of any provisions of this agreement.

22. LITIGATION OR ARBITRATION

In the event that suit or arbitration is brought to enforce the terms of this agreement, the prevailing party shall be entitled to litigation costs and reasonable attorneys' fees. The Dispute Resolution provisions are set forth on Exhibit "B," 'Dispute Resolution' attached hereto and by this reference incorporated herein.

23. RETENTION OF RECORDS

Contractor shall maintain all required records for three years after the City makes final payment and all other pending matters are closed, and shall be subject to the examination and /or audit of the City, a federal agency, and the state of California.

24. TERM OF AGREEMENT

This agreement shall remain in effect for the period of **Select start date** through **Select end date** unless extended, amended, or terminated in writing by CITY.

25. ENTIRE AGREEMENT

This document constitutes the sole agreement of the parties hereto relating to said project and states the rights, duties, and obligations of each party as of the document's date. Any prior agreement, promises, negotiations, or representations between parties not expressly stated in this document are not binding. All modifications, amendments, or waivers of the terms of this agreement must be in writing and signed by the appropriate representatives of the parties to this agreement.

26. STATEMENT OF ECONOMIC INTEREST

Consultants, as defined by Section 18701 of the Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations, are required to file a Statement of Economic Interests with 30 days of approval of a contract services agreement with the City of its subdivisions, on an annual basis thereafter during the term of the contract, and within 30 days of completion of the contract.

Based upon review of the Consultant's Scope of Work and determination by the City Manager, it is determined that Consultant **Choose an item** required to file a Statement of Economic Interest. A statement of Economic Interest shall be filed with the City Clerk's office no later than 30 days after the execution of the agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

FOR FIRST PARTY:

Signature

Date

Printed name

Title

Tax ID#

APPROVED AS TO FORM:

Nira F. Doherty, City Attorney

Date

FOR CITY OF MENLO PARK:

Signature Authority, Title

Date

ATTEST:

Judi A. Herren, City Clerk

Date

EXHIBIT “A” – SCOPE OF SERVICES

A1. SCOPE OF WORK

FIRST PARTY agrees to provide consultant services for CITY’s **Department**. In the event of any discrepancy between any of the terms of the FIRST PARTY’s proposal and those of this agreement, the version most favorable to the CITY shall prevail. FIRST PARTY shall provide the following services:

Provide general consultant services for projects as determined by the CITY. The detailed scope of work for each task the CITY assigns the consultant shall be referred to as Exhibit A -1, which will become part of this agreement. A notice to proceed will be issued separately for each separate scope of work agreed to between the CITY and FIRST PARTY.

FIRST PARTY agrees to perform these services as directed by the CITY in accordance with the standards of its profession and CITY’s satisfaction.

A2. COMPENSATION

CITY hereby agrees to pay FIRST PARTY at the rates to be negotiated between FIRST PARTY and CITY as detailed in Exhibit A-1. The actual charges shall be based upon (a) FIRST PARTY’s standard hourly rate for various classifications of personnel; (b) all fees, salaries and expenses to be paid to engineers, consultants, independent contractors, or agents employed by FIRST PARTY; and shall (c) include reimbursement for mileage, courier and plan reproduction. The total fee for each separate Scope of Work agreed to between the CITY and FIRST PARTY shall not exceed the amount shown in Exhibit A-1.

FIRST PARTY shall be paid within thirty (30) days after approval of billing for work completed and approved by the CITY. Invoices shall be submitted containing all information contained in Section A5 below. In no event shall FIRST PARTY be entitled to compensation for extra work unless an approved change order, or other written authorization describing the extra work and payment terms, has been executed by CITY before the commencement of the work.

A3. SCHEDULE OF WORK

FIRST PARTY’S proposed schedule for the various services required will be set forth in Exhibit A-1.

A4. CHANGES IN WORK -- EXTRA WORK

In addition to services described in Section A1, the parties may from time to time agree in writing that FIRST PARTY, for additional compensation, shall perform additional services including but not limited to:

- Change in the services because of changes in scope of the work.
- Additional tasks not specified herein as required by the CITY.

The CITY and FIRST PARTY shall agree in writing to any changes in compensation and/or changes in FIRST PARTY’s services before the commencement of any work. If FIRST PARTY deems work he/she has been directed to perform is beyond the scope of this agreement and constitutes extra work, FIRST PARTY shall immediately inform the CITY in writing of the fact. The CITY shall make a determination as to whether such work is in fact beyond the scope of this agreement and constitutes extra work. In the event that the CITY determines that such work does constitute extra work, it shall provide compensation to the FIRST PARTY in accordance with an agreed cost that is fair and equitable. This cost will be mutually agreed upon by the CITY and FIRST PARTY. A supplemental agreement providing for such compensation for extra work shall be negotiated between the CITY and the FIRST PARTY. Such supplemental agreement shall be executed by the FIRST PARTY and may be approved by the City Manager upon recommendation of the **Project Manager’s title**.

A5. BILLINGS

FIRST PARTY's bills shall include the following information: A brief description of services performed, project title and the agreement number; the date the services were performed; the number of hours spent and by whom; the current contract amount; the current invoice amount; Except as specifically authorized by CITY, FIRST PARTY shall not bill CITY for duplicate services performed by more than one person. In no event shall FIRST PARTY submit any billing for an amount in excess of the maximum amount of compensation provided in Section A2.

The expenses of any office, including furniture and equipment rental, supplies, salaries of employees, telephone calls, postage, advertising, and all other expenses incurred by FIRST PARTY in the performances of this agreement shall be incurred at the FIRST PARTY's discretion. Such expenses shall be FIRST PARTY's sole financial responsibility.

EXHIBIT "B" - DISPUTE RESOLUTION

- B1.0** All claims, disputes and other matters in question between the FIRST PARTY and CITY arising out of, or relating to, the contract documents or the breach thereof, shall be resolved as follows:
- B2.0 Mediation**
- B2.1** The parties shall attempt in good faith first to mediate such dispute and use their best efforts to reach agreement on the matters in dispute. After a written demand for non-binding mediation, which shall specify in detail the facts of the dispute, and within ten (10) days from the date of delivery of the demand, the matter shall be submitted to a mutually agreeable mediator. The Mediator shall hear the matter and provide an informal opinion and advice, none of which shall be binding upon the parties, but is expected by the parties to help resolve the dispute. Said informal opinion and advice shall be submitted to the parties within twenty (20) days following written demand for mediation. The Mediator's fee shall be shared equally by the parties. If the dispute has not been resolved, the matter shall be submitted to arbitration in accordance with Paragraph B3.1.
- B3.0 Arbitration**
- B3.1** Any dispute between the parties that is to be resolved by arbitration as provided in Paragraph B2.1 shall be settled and decided by arbitration conducted by the American Arbitration Association in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, as then in effect, except as provided below. Any such arbitration shall be held before three arbitrators who shall be selected by mutual agreement of the parties; if agreement is not reached on the selection of the arbitrators within fifteen (15) days, then such arbitrator(s) shall be appointed by the presiding Judge of the court of jurisdiction of the agreement.
- B3.2** The provisions of the Construction Industry Arbitration Rules of the American Arbitration Association shall apply and govern such arbitration, subject, however to the following:
- B3.3** Any demand for arbitration shall be writing and must be made within a reasonable time after the claim, dispute or other matter in question as arisen. In no event shall the demand for arbitration be made after the date that institution of legal or equitable proceedings based on such claim, dispute or other matter would be barred by the applicable statute of limitations.
- B3.4** The arbitrator or arbitrators appointed must be former or retired judges, or attorneys at law with last ten (10) years' experience in construction litigation.
- B3.5** All proceedings involving the parties shall be reported by a certified shorthand court reporter, and written transcripts of the proceedings shall be prepared and made available to the parties.
- B3.6** The arbitrator or arbitrators must be made within and provide to the parties factual findings and the reasons on which the decisions of the arbitrator or arbitrators is based.
- B3.7** Final decision by the arbitrator or arbitrators must be made within ninety (90) days from the date of the arbitration proceedings are initiated.
- B3.8** The prevailing party shall be awarded reasonable attorneys' fees, expert and non-expert witness costs and expenses, and other costs and expenses incurred in connection with the arbitration, unless the arbitrator or arbitrators for good cause determine otherwise.
- B3.9** Costs and fees of the arbitrator or arbitrators shall be borne by the non-prevailing party, unless the arbitrator or arbitrators for good cause determine otherwise.
- B3.10** The award or decision of the arbitrator or arbitrators, which may include equitable relief, shall be final, and judgment may be entered on it in accordance with applicable law in any court having jurisdiction over the matter.



STAFF REPORT

City Council

Meeting Date:

6/13/2023

Staff Report Number:

23-138-CC

Consent Calendar:

Adopt a resolution approving the list of projects eligible for fiscal year 2023-24 funds from Senate Bill 1: The Road Repair and Accountability Act of 2017

Recommendation

Staff recommends that the City Council adopt a resolution (Attachment A) approving the list of projects eligible for fiscal year 2023-24 to receive funds from Senate Bill 1: The Road Repair and Accountability Act.

Policy Issues

This action is consistent with the City Council's goal of maintaining and enhancing the City's municipal infrastructure and facilities. It is also consistent with the 2016 General Plan Circulation Element, which includes policies that seek to provide and maintain a safe, efficient, attractive, user-friendly intermodal circulation system. The circulation element promotes a healthy, safe and active community and quality of life throughout Menlo Park and increases accessibility for the use of streets by pedestrians, bicyclists and transit riders. The projects identified in this staff report are consistent with these policies.

Background

Senate Bill 1 (SB 1), also known as the Road Repair and Accountability Act of 2017 or Gas Tax, was enacted into law April 28, 2017. SB 1 created a \$54 billion investment to fund road, bridge and freeway repair projects throughout the state over the next decade by increasing California's gasoline and diesel taxes and vehicle fees. This investment was structured to be evenly allocated between cities, counties and the state's highway system for repairs to local street and roads, bike and pedestrian projects, and local planning grants.

As of April 2023, the City has received \$503,527 of \$793,824 in projected funding for fiscal year 2022-23. Funds were provided on a monthly basis starting July 1, 2022, and come from the SB 1 Road Maintenance and Rehabilitation Act (RMRA). For fiscal year 2023-24, the City is eligible to receive \$844,369 in projected revenues.

The City is responsible for maintaining approximately 96 miles of streets and asphalt resurfacing is performed every two years to keep roadways at an appropriate level of service. The City uses StreetSaver, a pavement management software developed by the Metropolitan Transportation Commission, to generate an annual list of street sections for asphalt maintenance. StreetSaver helps allocate project funding by analyzing existing street conditions, estimated costs, and available funding to propose the type of maintenance needed at each street segment that has been identified for SB 1 funding. Both projects are described in the Analysis Section and Exhibit A to Attachment A.

Analysis

The intent of SB 1 is to provide additional funding for deferred street maintenance projects and not to replace the existing levels of general revenue spending by the City on such projects. Consequently, SB 1 requires that the City maintain “general fund” spending for street and road maintenance. As defined by the legislation, general fund expenditures are any unrestricted funds that the City or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street, road and highway purposes.

In order to receive SB 1 funds, the City must submit a list of proposed eligible projects, adopted by resolution, to the California Transportation Commission (CTC) each year. For fiscal year 2023-24, the CTC must receive the list by July 1. Failure to submit an eligible project list to the CTC would result in forfeiture of the monthly apportionments. The list must include a project description, location, schedule, and an estimate of the projects useful life per program funding requirements and is attached hereto as Exhibit A to Attachment A.

For fiscal year 2023-24, the City identified the 2023 Street Resurfacing Project with 16 various locations and Haven Avenue between Marsh Road and the Atherton Channel as eligible for SB 1 funding. Both projects are described in the analysis section and Exhibit A to Attachment A. The scope of work in the 2023 Street Resurfacing Project includes installation of asphalt resurfacing, asphalt dig-out, sidewalk repair, valley gutter, curb and gutter, speed humps, striping, tree root repairs, and utility cover adjustments across 16 road segments citywide.

The 2023 Street Resurfacing project will begin construction mid-June. This project will be completed in fall 2023.

The Haven Avenue project spans from Marsh Road to Atherton Channel; this project is a carry-over from last fiscal year’s list for SB 1 funding. This project will be presented on the June 13 City Council agenda and is planned for construction tentatively from July 2023 through October 2024. Both projects are generally described in Table 1 below.

Table 1: Projects identified for SB 1 funding		
Project name	Project description	Construction estimate
2023 Street Resurfacing	Installation of asphalt resurfacing, asphalt dig-out, sidewalk repair, valley gutter, curb and gutter, speed humps, striping, tree root repairs, and utility cover adjustment across 16 various road segments.	\$2,843,558
Haven Avenue	Installation of rubberized asphalt resurfacing, concrete sidewalks, driveways, a pedestrian and bicycle bridge, traffic signal modifications, medians, curb ramps and striping	\$2,208,276

Staff recommends proceeding with City Council action on the resolution to ensure the City can remain eligible to receive SB 1 funds.

Impact on City Resources

With the adoption of the resolution, the City would be eligible for SB 1 funding for fiscal year 2023-24. The assigned projects are improvements that the City Council funds through the annual budgeting process. As described above, SB 1 would provide funding up to \$844,369 for fiscal year 2023-24. Preliminary construction costs for 2023 Street Resurfacing and Haven Avenue is estimated at \$5,052,434 combined. Additional funding sources for these projects may include Highway User's Tax, transportation impact fees, developer contributions, and the San Mateo County transportation sales tax measures (Measures A and W).

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it has no potential for resulting in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

A. Resolution

Report prepared by:

Mike Owyang, Associate Engineer

Reviewed by:

Tanisha Werner, Assistant Director of Public Works - Engineering

RESOLUTION NO. XXXX**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
APPROVING THE LIST OF PROJECTS ELIGIBLE FOR FISCAL YEAR 2023-
24 FUNDS FROM THE ROAD REPAIR AND ACCOUNTABILITY ACT (SB 1)**

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and signed into law by the Governor in April 2017 in order to address the significant multimodal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of our City are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City must adopt by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the City will receive an estimated \$844,369 in RMRA funding in fiscal year 2023-24 from SB 1; and

WHEREAS, this is the seventh year in which the City is receiving SB 1 funding and will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS, the City has undertaken public outreach to ensure public input into our community's transportation priorities through development of the Transportation Master Plan adopted on November 17, 2020; and

WHEREAS, the City used its pavement management program to develop the SB 1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the community priorities for transportation investment; and

WHEREAS, the funding from SB 1 will help the City maintain and rehabilitate streets, roads and drainage, throughout the City this year and many other similar projects into the future; and

WHEREAS, the 2022 California statewide Local Streets and Roads Needs Assessment found that SB 1 is a critical funding source that has resulted in cities and counties stabilizing the average statewide local pavement condition, but significant challenges remain to ensure streets and roads are adequately maintained including limited construction capacity, increasing bid prices, and other infrastructure needs continuing to grow; and

WHEREAS, the SB 1 project list and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide.

NOW THEREFORE BE IT RESOLVED, that the City of Menlo Park, acting by and through its

City Council, finds as follows:

1. The foregoing recitals are true and correct
2. The fiscal year 2023-24 list of projects planned to be funded with RMRA revenues include the projects in "Exhibit A"

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council resolution was duly and regularly passed and adopted at a meeting of said City Council on the thirteenth of June, 2023, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this ____ of June, 2023.

Judi A. Herren, City Clerk

Exhibits:

- A. Fiscal year 2023-24 list of projects planned to be funded with RMRA revenues

Planned projects for road maintenance and rehabilitation account (RMRA) fiscal year 2023-24 revenues

Fiscal Year 2023-24 proposed projects eligible for SB 1 funding						
Item	Project name	Project Description	Project Location	Estimated start date	Estimated end date	Estimated useful life in years
1	2023 Street Resurfacing	Installation of asphalt resurfacing, asphalt dig-out, sidewalk repair, valley gutter, curb and gutter, speed humps, striping, tree root repairs, and utility cover adjustments.	Chilco Street Hill Avenue Windermere Avenue Central Avenue East O'Keefe Street Windermere Avenue Van Buren Road Burgess Drive Windsor Drive Windsor Way Johnson Street Hidden Oaks Drive Blueridge Avenue Clayton Drive Eastridge Avenue Garland Drive	6/2023	10/2023	12 to 15
2	Haven Avenue	Installation of rubberized asphalt resurfacing, concrete sidewalks, driveways, a pedestrian and bicycle bridge, traffic signal modifications, medians, curb ramps, and striping	Marsh Road to Atherton Channel	7/2023	10/2024	12 to 15



STAFF REPORT

City Council

Meeting Date:

6/13/2023

Staff Report Number:

23-139-CC

Consent Calendar:

Authorize the city manager to execute a construction contract to McGuire and Hester for the Haven Avenue Streetscape project

Recommendation

Staff recommends that the City Council authorize the city manager to execute a \$1,983,401 contract to McGuire and Hester (Attachment A), approve a construction contingency in the amount of \$198,000 (held by the City), and approve construction administration fees in the amount of \$27,475 for construction of the Haven Avenue Streetscape project (Project).

Policy Issues

The Project is consistent with policies stated in the 2016 general plan circulation element. These policies seek to maintain a safe, efficient, attractive, user-friendly circulation system that promotes a healthy, safe, and active community and quality of life throughout Menlo Park. The Project is included in the 2022-23 capital improvement program (CIP).

Background

In the City's 2015-2023 housing element, Haven Avenue was designated as a future site for higher-density housing development. Subsequently, 540 housing units were constructed along Haven Avenue between 3645 Haven Ave. (Elan Menlo Park) and 3639 Haven Ave. (Anton Menlo). The transportation requirements for these housing developments included pedestrian and bicycle improvements along Haven Avenue between Marsh Road and approximately 3715 Haven Ave. This area of Haven Avenue is under Caltrans jurisdiction. In June 2017, The City Council adopted Resolution No. 6389 to remove parking on both sides of Haven Avenue between 3715 Haven Ave. and Marsh Road and amended the existing maintenance agreement between the City and Caltrans.

The Haven Avenue streetscape project includes construction of a dedicated pedestrian/bicycle bridge over the Atherton Channel at Haven Avenue, addition of over 20 new trees, complete pavement rehabilitation, replacement of curb ramps and improvements to the existing median to provide a crossing refuge at the Marsh Road/Haven Avenue/Bayfront Expressway intersection, modification of the existing traffic signal, and installation and/or widening of sidewalks on both sides of the street.

Since 2020 design work on the Project has included coordination with Caltrans and renewing the Caltrans encroachment permit, work with the State Department of Fish and Game for permit to work in the vicinity of the Atherton Channel, and coordinating funding for the Project. Design work on the Project was completed in February 2023 and the Project was advertised for bidding March 17.

Analysis

On March 17 the City solicited bids from prospective contractors for the project. The project was advertised on PlanetBids, a procurement platform utilized by the City, and posted twice in a local newspaper. Construction bids were opened April 10 and the bid results are shown in Table 1.

Of the two bids received, McGuire and Hester was identified as the apparent low bidder with a base bid price of \$1,983,401, which was approximately 15% higher than the engineer’s estimate of \$1,726,185. Upon review, staff confirmed that the engineer’s estimate utilized a lower unit price for asphalt. The 15% discrepancy can also be attributed to higher material procurement costs for the structural steel bridge, paving and traffic signal hardware.

Bid Alternate A provides for the substitution of rubberized asphalt for standard hot mix asphalt to comply with Council direction to solicit bid results for rubberized asphalt on all collector and arterial streets. Based on the small quantity of asphalt needed for this project, the use of rubberized asphalt results in a \$100,000 premium. Based on the pricing and the budget constraints described further below, staff recommends proceeding with the base bid.

Staff has found the low bidder to be both responsive and responsible per public contracting code requirements. Subject to the City Council’s award of contract, the Project is tentatively scheduled for construction from July 2023 to October 2024.

Table 1: Bid results			
Bidder	Base bid subtotal	Bid Alternate A	Bid total
Engineers Estimate	\$1,726,185	\$6,500	\$1,732,685
McGuire and Hester	\$1,983,401	\$102,000	\$2,085,401
Granite Rock Co.	\$2,441,121	\$71,100	\$2,512,221

Impact on City Resources

This project is included in the fiscal year 2022-23 CIP, with \$2,208,876 remaining in available funding from outside agencies, the transportation impact fee fund, and Measure W. Table 2 outlines the outside agency and grant funding sources. The estimated construction budget, including the base bid and bid alternates, is summarized in Table 3 and totals \$2,208,876, including a 10% construction contingency and construction administration fees. Construction administration is estimated at approximately \$27,000 and includes construction management and inspection support.

Table 2: Available funding	
Agency	Funding
Developer contributions	\$469,000
California Department of Transportation (Caltrans)	\$300,000
San Mateo County Transportation Authority (SMCTA) Measure A Pedestrian and Bicycle Program	\$170,000
California Department of Parks and Recreation grant	\$600,000
Measure W	\$250,000
Transportation impact fees	\$419,876
Total funds available	\$2,208,876

The project has sufficient funding to construct the Project. Therefore, staff is recommending that the City Council award a \$1,983,401 construction contract, the base bid, to McGuire and Hester, approve a construction contingency in the amount of \$198,000, and approve construction administration in the amount of \$27,475 for the Haven Avenue Streetscape Project.

Table 3: Construction budget	
Item	Cost
Construction subtotal (base bid)	\$1,983,401
Contingency (10%)	\$198,000
Construction administration	\$27,475
Total budget	\$2,208,876
Available funding	\$2,208,876

Environmental Review

On Jan. 21, 2016, a mitigated negative declaration was published for this Project pursuant to provisions of the California Environmental Quality Act (CEQA). No further environmental action is required.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Construction contract
- B. Site map

Staff Report #: 23-139-CC

Report prepared by:
Tanisha Werner, Assistant Public Works Director - Engineering

Report reviewed by:
Nikki Nagaya, Deputy City Manager

CONSTRUCTION AGREEMENT

City Manager's Office
 701 Laurel St., Menlo Park, CA 94025
 tel 650-330-6620



Agreement #:
AGREEMENT FOR SERVICES BETWEEN THE CITY OF MENLO PARK AND MCGUIRE AND HESTER
THIS CONSTRUCTION CONTRACT ("Contract") is made and entered into this ____ day of _____, _____ ("Execution Date") by and between the CITY OF MENLO PARK, a California municipal corporation, ("City") and MCGUIRE AND HESTER ("Contractor").
RECITALS
<p>A. Contractor is a California Corporation duly organized and in good standing in the State of California, License Number 95879. Contractor represents and warrants that it has the background and experience set forth in the Contractor's responses to the notice inviting bids.</p> <p>B. Contractor represents that it is duly licensed by the State of California and has the background, knowledge, experience and expertise to perform the obligations set forth in this Contract.</p> <p>C. On March 17, 2023, the City issued a Notice to Contractors inviting bids for the Project. A copy of the Contractor's Bid proposal and List of Subcontractors is attached herein and incorporated by this reference.</p> <p>D. The City desires to retain Contractor as an independent contractor to provide the construction and other services identified in this Contract for the Project upon the terms and conditions contained herein.</p>
AGREEMENT
<p>NOW, THEREFORE, in consideration of performance by the parties of the promises, covenants and conditions contained herein, the parties hereby agree as follows:</p> <p>1. DEFINITIONS. Capitalized terms used throughout the Contract Documents shall have the meanings set forth in this Contract and/or the Special Provisions. If there is a conflict between the definitions in this Contract and the Special Provisions, the definitions in this Contract shall prevail.</p> <p>2. PROJECT. The project is the construction of Haven Avenue Street Improvement ("Project"). The work includes all labor, materials, equipment, services, permits, licenses and taxes, and all other things necessary for Contractor to perform its obligations and complete the Project, including, without limitation, any Change Orders executed by City and Contractor in accordance with the requirements of the Contract Documents ("Work").</p> <p>3. CONTRACT DOCUMENTS.</p> <p>3.1 List of Documents. The Contract Documents (sometimes collectively referred to as "Agreement" or "Bid Documents") consist of the following documents which are on file with the Public Works</p>

Department and are hereby incorporated by reference.

- 1) Change Orders
- 2) Field Orders
- 3) Contract
- 4) Bidding Addenda
- 5) Special Provisions
- 6) Project Plans and Drawings
- 7) Technical Specifications
- 8) City Standard Details
- 9) State of California Department of Transportation Specifications, 2006 Edition (Cal Trans specifications)
- 10) Notice to Contractors
- 11) Contractor's Bid
- 12) Bidder Certifications, Questionnaire and Statements
- 13) Reports listed in the Contract Documents
- 14) City of Menlo Park Waste Management Form, Waste Management Daily Transport Report
- 15) City of Menlo Park Truck Route Map and Regulations
- 16) Performance, Payment and Maintenance Bonds

3.2 Order of Precedence. For the purposes of construing, interpreting and resolving inconsistencies between and among the provisions of this Contract, the Contract Documents shall have the order of precedence as set forth in the preceding section. If a claimed inconsistency cannot be resolved through the order of precedence, the City shall have the sole power to decide which document or provision shall govern as may be in the best interests of the City.

4. PERMITS. Contractor, at its sole expense, shall obtain and maintain during the term of this Contract, all appropriate permits, licenses and certificates that may be required in connection with the performance of the Work, including, but not limited to, a City business license.

5. DEPARTMENT OF INDUSTRIAL RELATIONS. Contractor and any subcontractor performing Work on this Project shall be registered with the Department of Industrial Relations ("DIR") pursuant to Labor Code Section 1725.5. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the DIR pursuant to Labor Code Section 1725.5, with limited exceptions from this requirement for bid purposes only under Labor Code Section 1771.1(a). This Project is subject to compliance monitoring and enforcement by the DIR. It is the responsibility of the Contractor to ensure all DIR requirements and regulations are met and stay current. For more information see <http://dir.ca.gov/Public-Works/SB854.html>.

6. TERM. This Contract is effective on the Execution Date set forth in the initial paragraph of this Contract and shall remain in effect until the Project has been satisfactorily completed by Contractor, unless earlier terminated pursuant to the terms of this Contract.

7. TIME OF COMPLETION. Time is of the essence with respect to all time limits set forth in the Contract Documents. Contractor shall commence the Work on the date specified in the City's Notice to Proceed. Contractor shall diligently prosecute the Work to Substantial Completion within 300 (three-hundred) calendar days after the date specified in the City's Notice to Proceed ("Contract Time"). The Contract Time may only be adjusted for extensions of time approved by the City and agreed to by Change Order executed by City and Contractor in accordance with the requirements of the Contract Documents.

8. **COMPENSATION.** The City agrees to compensate Contractor for its satisfactory completion of the Work in compliance with the Contract Documents for the not to exceed amount of one million, nine hundred eighty three thousand, four hundred and one (\$1,983,401) ("Contract Sum"). Payment shall be as set forth in the Plans, Special Provisions and/or Technical Specifications. The Contract Sum may only be adjusted by Change Orders issued, executed and satisfactorily performed by Contractor in accordance with the requirements of the Contract Documents. The Contract Sum shall be adjusted (upward or downward) only to account for Change Orders. The Contract Sum is and shall be full compensation for all Work performed by Contractor. The Contract Sum shall cover all losses arising out of the nature of the Work or from the elements or any unforeseen difficulties or obstructions which may arise or be encountered in performance of the Work until its Acceptance by the City, all risks connected with the Work and any and all expenses incurred due to the suspension or discontinuance of the Work.

9. **STANDARD OF PERFORMANCE.** As a material inducement to the City to enter into this Contract, Contractor hereby represents and warrants that it has the qualifications and experience necessary to undertake the Work to be provided and the Project to be completed pursuant to this Contract. Contractor agrees that the Work shall be performed by qualified, experienced and well-supervised personnel. The Work performed pursuant to this Contract shall be performed in a manner consistent with the standard of care under California law applicable to those who specialize in providing such services for projects of the type, scope and complexity of the Project.

10. **COMPLAINCE WITH LAW.** This Project constitutes a public work within the meaning of California Labor Code Section 1720 et. seq. and is subject to prevailing wage laws. The Work performed by Contractor pursuant to this Contract shall be provided in accordance with all ordinances, resolutions, statutes, rules and regulations of the City, and any federal, state or local governmental agency having jurisdiction in effect at the time the work is rendered.

11. **REPRESENTATIVE.** Randy C. Somerday is hereby designated as the project manager/superintendent/foreman of Contractor authorized to act on its behalf with respect to the Work specified in this Contract. It is expressly understood that the experience, knowledge, capability and reputation of McGuire and Hester were a substantial inducement for City to enter into this Contract. Therefore, Randy C. Somerday shall be responsible during the term of this Contract for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. The representative may not be changed by Contractor without the express written approval of the City.

12. **LIQUIDATED DAMAGES.**

12.1 **Entitlement.** City and Contractor acknowledge and agree that if Contractor fails to fully and satisfactorily complete the Work within the Contract Time, the City will suffer, as a result of Contractor's failure, substantial damages which are both extremely difficult and impracticable to ascertain. Such damages may include, but are not limited to: (a) loss of public confidence in the City and its contractors; (b) loss of public use of public facilities; and (c) extended disruption to public.

12.2 **Daily Amount.** City and Contractor have reasonably endeavored, but failed, to ascertain the actual damage that the City will incur if the Contractor fails to achieve Substantial Completion of the Work within the Contract Time. Therefore, the parties agree that in addition to all other damages to which the City may be entitled other than delay damages, in the event the Contractor shall fail to achieve Substantial Completion of the Work within the Contract Time, Contractor shall pay City as liquidated damages the amount of Five Hundred Dollars (\$500.00) per day for each calendar day after the expiration of the Contract Time until Contractor achieves Substantial Completion of the Work. The liquidated damages amount is not a penalty, but a reasonable estimate of the amount of damages the City will suffer.

12.3 Apportionment. Such liquidated damages shall be subject to reduction for delays for which Contractor is entitled to receive an extension of time under the Contract Documents (“Apportionment”). Such Apportionment shall not be affected by the fact that liquidated damages may not be applied for periods of time during which delays have occurred that are caused by both City and Contractor. It is agreed that the liquidated damages shall not be applied for portions of the Work completed prior to the expiration of the Contract Time.

12.4 Exclusive Remedy. City and Contractor acknowledge and agree that this Section 11, Liquidated Damages, shall be the City’s only remedy for delay damages caused by the Contractor’s failure to achieve Substantial Completion of the Work within the Contract Time.

12.5 Damages upon Abandonment. In the event that the Contractor either abandons the Work or is terminated for default in accordance with the provisions of this Contract, City shall have the right, in its sole discretion exercised by written notice issued either before or after Substantial Completion, to elect to either assert or waive its right to liquidated damages. If City elects to assert its right to liquidated damages, then the liquidated damages shall be calculated from expiration of the Contract Time to the date that Substantial Completion of the Work is achieved by the City or its replacement contractor employed to complete Contractor’s performance. If City elects to waive its right to liquidated damages, then Contractor shall be liable to the City, in lieu of the liquidated damages, for all actual Losses (as defined in the General Conditions) proximately resulting from Contractor’s failure to complete the Work within the Contract Time.

12.6 Other Remedies. The parties further acknowledge and agree that the City is entitled to any and all available legal and equitable remedies City may have where City’s Losses are caused by any reason other than Contractor’s failure to achieve Substantial Completion of the Work within the Contract Time.

13. INDEPENDENT CONTRACTOR. Contractor is, and shall at all times remain as to the City, a wholly independent contractor and not an agent or employee of the City. Contractor shall receive no premium or enhanced pay for work normally understood as overtime, nor shall Contractor receive holiday pay, sick leave, administrative leave, or pay for any other time not actually worked. The intention of the parties is that Contractor shall not be eligible for benefits and shall receive no compensation from the City except as expressly set forth in this Contract. Contractor shall have no power to incur any debt, obligation, or liability on behalf of the City or otherwise act on behalf of the City as an agent. Neither the City, nor any of its agents shall have control over the conduct of Contractor, any of Contractor’s employees, or any subcontractors, except as set forth in this Contract. Contractor shall at no time, or in any manner, represent that it or any of its agents or employees or subcontractors are in any manner employees of the City. Contractor agrees to pay all required taxes on amounts paid to Contractor under this Contract, and to indemnify and hold the City harmless from any and all taxes, assessments, penalties, and interest asserted against the City by reason of the independent contractor relationship created by this Contract. Contractor shall fully comply with the worker’s compensation law regarding Contractor, Contractor’s employees and subconsultants. Contractor further agrees to indemnify and hold the City harmless from any failure of Contractor and any subconsultants to comply with applicable worker’s compensation laws.

14. CONFLICT OF INTEREST. Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the work to be performed by Consultant under this Contract, or which would conflict in any manner with the performance of its services hereunder. Contractor further covenants that, in performance of this Contract, no person having any such interest shall be employed by it. Furthermore, Contractor shall avoid the appearance of having any interest which would conflict in any manner with the performance of the work pursuant to this Contract. Contractor agrees not to accept any employment during the term of this Contract which is or

may make Contractor financially interested, as provided in California Government Code Sections 1090 and 87100, in any decision made by the City on any matter in connection with which Contractor has been retained pursuant to this Contract. However, nothing herein shall preclude Contractor from accepting other engagements with the City.

15. INDEMNIFICATION.

15.1 To the fullest extent permitted by law, Contractor shall indemnify, defend, with independent counsel approved by the City, and hold harmless the City, and its elective or appointive boards, officers, employees agents and volunteers ("Indemnitee") from and against any and all claims, losses, or liability that may arise out of or result from damages to property or personal injury received by reason of, or in the course of work performed under this Contract due to the acts or omissions of Contractor or Contractor's officers, employees, agents or subcontractors. The indemnification provisions survive completion of the Work or the termination of this Contract. The acceptance of such services shall not operate as a waiver of such right of indemnification. Notwithstanding the foregoing, nothing contained herein shall be construed as obligating Contractor to indemnify any Indemnitee for any claims, losses or liability resulting from the sole or active negligence or willful misconduct of the Indemnitee. Contractor shall pay City for any costs incurred in enforcing this provision.

15.2 The City does not and shall not waive any rights that they may possess against Contractor because of the acceptance by the City or the deposit with the City of any insurance policy or certificate required pursuant to this Contract. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

15.3 Pursuant to Public Contract Code Section 9201, the City shall timely notify Contractor upon receipt of any third-party claim relating to the Contract.

16. ASSIGNABILITY. The parties agree that the experience and qualifications of Contractor as set forth in the Contractor's Bid are material considerations for the City entering into this Contract. Consultant shall not assign or transfer any interest in this Contract, without the prior written consent of the City, and any attempt by Contractor to do so shall be void and of no effect and a breach of this Contract. For purposes of this section, the sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Contractor or of any general partner or joint venturer or syndicate member of Contractor, if a partnership or joint venture or syndicate or co-tenancy exists, which shall result in changing the control of Contractor, shall be construed as an assignment of this Construction Contract. Control means more than fifty percent (50%) of the voting power of the corporation or other entity.

17. INSURANCE AND BOND REQUIREMENTS.

17.1 Prior to the commencement of any Work, the Contractor shall provide the City with evidence that it has obtained the insurance required by this Section and all bonds, including, but not limited to, payment and performance bonds, required in the Special Provisions. Failure to obtain and maintain the required insurance and bonds to so shall be deemed a material breach of this Contract.

17.2 Insurance Requirements. Contractor shall obtain the following insurance.

A. Worker's Compensation and Employer's Liability Insurance: The CONTRACTOR shall have in effect during the entire life of this Contract workers' compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Contract, the CONTRACTOR makes the following certification, required by Section 18161 of the California Labor Code: "I am aware of the provisions of Section 3700

of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Contract."

B. Commercial General Liability Insurance: The CONTRACTOR shall take out and maintain during the life of this Contract such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this Contract from any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the CONTRACTOR's operations under this Contract, whether such operations be by CONTRACTOR or by any sub-consultant or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be not less than two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) in aggregate, or four million dollars (\$4,000,000) combined single limit bodily injury and property damage for each occurrence. CONTRACTOR shall provide the City with acceptable evidence of coverage, including a copy of all declarations of coverage exclusions.

C. Automobile Liability Insurance: CONTRACTOR shall maintain Automobile Liability Insurance pursuant to this Contract in an amount of not less than one million dollars (\$1,000,000) for each accident combined single limit or not less than one million dollars (\$1,000,000) for any one (1) person, and one million dollars (\$1,000,000) for any one (1) accident, and Three Hundred Thousand Dollars, (\$300,000) property damage.

17.3 CITY and its subsidiary agencies, and their officers, agents, employees and servants shall be named as additional insured on any such policies of Commercial General Liability and Automobile Liability Insurance, (but not for the workers' compensation), which shall also contain a provision that the insurance afforded thereby to the CITY, its subsidiary agencies, and their officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy, and that if the CITY, its subsidiary agencies and their officers and employees have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.

17.4 In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, CITY, at its option, may, notwithstanding any other provision of this Contract to the contrary, immediately declare a material breach of this Contract and suspend all further work pursuant to this Contract.

17.5. Before the execution of this Contract, any deductibles or self-insured retentions must be declared to and approved by CITY.

18. SUSPENSION. The City may, at any time and from time to time, without cause, order Contractor, in writing ("Suspension Order"), to suspend, delay, or interrupt the Work in whole or in part for such period of time, up to an aggregate of fifty percent (50%) of the Contract Time, as City may determine, with such period of suspension to be computed from the date of the Suspension Order. Upon receipt of a Suspension Order, Contractor shall, at City's expense, comply with its terms and take all reasonable steps to minimize costs allocable to the Work covered by the Suspension Order during the period of work stoppage. Within the period of the above noted aggregate time, or such extension to that period as is agreed upon by Contractor and City, City shall either cancel the Suspension Order or delete the work covered by the Suspension Order by issuing a Change Order. If a Suspension Order is canceled or expires, Contractor shall resume and continue with the Work. A Change Order will be issued to cover any adjustments of the Contract Sum or the Contract Time necessarily caused by such suspension.

19. BOOKS AND RECORDS. Contractor shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Contract in accordance with generally accepted accounting principles and practices consistently applied. City and City's accountants shall be afforded access at all times during normal business hours, to inspect, audit and copy Contractor's records, books, estimates, take-offs, cost reports, ledgers, schedules, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to this Project, and Contractor shall preserve these for a period of three years after the later of (i) final payment or (ii) final resolution of all Contract Disputes and other disputes or for such longer period as may be required by law. Contractor's compliance with any request by City pursuant to this Section 18 shall be a condition precedent to filing or maintenance of any legal action or proceeding by Contractor against City and to Contractor's right to receive further payments under the Contract Documents. Any failure by Contractor to provide access to its business records for inspection or copying by City shall be specifically enforceable by issuance of a writ or a provisional or permanent mandatory injunction by a court of competent jurisdiction based on affidavits submitted to such court, without the necessity of oral testimony.

20. WAIVER. Waiver by either party of any breach or violation of any one or more terms or conditions of this Contract shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. Acceptance by the City of the performance of any work by the Contractor shall not be deemed to be a waiver of any term or condition of this Contract. In no event shall the City's making of any payment to Contractor constitute or be construed as a waiver by the City of any breach of this Contract, or any default which may then exist on the part of Contractor, and the making of any such payment by the City shall in no way impair or prejudice any right or remedy available to the City with regard to such breach or default.

21. DEFAULT. In the event the City determines, in its sole discretion, that Contractor has failed or refused to perform any of the obligations set forth in the Contract Documents, or is in breach of any provision of the Contract Documents, the City may give written notice of default to Contractor in the manner specified for this giving of notices in this Contract. Except for emergencies, Contractor shall cure any default in performance of its obligations under the Contract Documents within two (2) business days after receipt of written notice. However, if the breach cannot be reasonably cured within such time, Contractor will commence to cure the breach within two (2) days and will diligently and continuously prosecute such cure to completion within a reasonable time, which shall in no event be later than ten (10) days after receipt of such written notice.

22. CITY RIGHTS AND REMEDIES.

22.1 Remedies Upon Default. In the event that Contractor fails to cure any default of this Contract within the time period set forth in Section 20, then City may pursue any remedies available under law or equity, including, without limitation, the following: (1) the City may, without terminating the Contract, delete certain portions of the Work, reserving to itself all rights to losses related thereto; (2) the City may, without terminating the Contract, engage others to perform the Work or portion of the Work that has not been performed by the Contractor and withhold the cost thereof to City from future payments to the Contractor, reserving to itself all rights to Losses related thereto; or (3) the City may, without terminating the Contract and reserving to itself all rights to Losses related thereto, suspend all or any portion of this Construction Contract for as long a period of time as City determines, in its sole discretion, appropriate, in which event City shall have no obligation to adjust the Contract Sum or Contract Time, and shall have no liability to Contractor for damages if City directs Contractor to resume Work; (4) the City may terminate all or any part of this Contract for default, reserving to itself all rights of Losses related thereto; or (5) the City may, without terminating the Contract and reserving to itself all rights to Losses related thereto, exercise its rights under the Performance Bond.

22.2 Additional Provisions. All of City's rights and remedies under this Contract are cumulative, and shall be in addition to those rights and remedies available in law or in equity. Designation in the Contract Documents of certain breaches as material shall not be construed as implying that other breaches not so designated are not material nor shall such designations be construed as limiting City's right to terminate the Contract, or the exercise of its other rights or remedies for default, to only material breaches. City's determination of whether there has been noncompliance with the Contract so as to warrant exercise by City of its rights and remedies for default under the Contract, shall be binding on all parties. No termination or action taken by City after such termination shall prejudice any other rights or remedies of City provided by law or equity or by the Contract Documents upon such termination; and City may proceed against Contractor to recover all liquidated damages and Losses suffered by City.

22.3 Delays by Sureties. Without limitation to any of City's other rights or remedies under the law, City has the right to suspend the performance by Contractor's sureties in the event of any of the following: (1) failure of the sureties to begin Work within a reasonable time in such manner as to insure full compliance with the Contract within the Contract Time; (2) abandonment of the Work; (3) if at any time City is of the opinion the Work is unnecessarily or unreasonably delayed; (4) willful violation of any terms of the Contract; (5) failure to perform according to the Contract Documents; or (6) failure to follow instructions of City for its completion within the Contract Time. City will serve notice of such failure upon the sureties and in the event the sureties neglect or refuse to cure the breach within the time specified in such notice, City shall have the power to suspend the performance or any part thereof of the sureties.

22.4 Damages to the City. The City will be entitled to recovery of all Losses under law or equity in the event of Contractor's default under the Contract Documents. In the event that City's Losses arise from Contractor's default under the Contract Documents, City shall be entitled to withhold monies otherwise payable to Contractor until Final Completion, as defined in the General Conditions, of the Project. If City incurs Losses due to Contractor's default, then the amount of Losses shall be deducted from the amounts withheld. Should the amount withheld exceed the amount deducted, the balance will be paid to Contractor or its designee upon Final Completion of the Project. If the Losses incurred by City exceed the amount withheld, Contractor shall be liable to City for the difference and shall promptly remit same to City.

22.5 Termination of the Contract for Default. Without limitation to any of City's other rights or remedies at law or in equity, and reserving to itself all rights to Losses related thereto, City shall have the right to terminate this Contract, in whole or in part, upon the failure of Contractor to promptly cure any default. City's election to terminate the Contract for default shall be communicated by giving Contractor a written notice of termination in the manner specified for the giving of notices in the Contract. Any notice of termination given to Contractor by City shall be effective immediately, unless otherwise provided therein.

22.6 Termination Without Cause. City shall have the option, at its sole discretion and without cause, of terminating this Contract in part or in whole by giving thirty (30) days written notice to Contractor. Contractor agrees to accept such sums as allowed under this Section as its sole and exclusive compensation and waives any claim for other compensation or Losses, including, but not limited to, loss of anticipated profits, loss of revenue, lost opportunity, or other consequential, direct, indirect or incidental damages of any kind.

22.7 Compensation. Following termination without cause and within forty-five (45) days after receipt of a billing from Contractor seeking payment of sums authorized by this Section, City shall pay to Contractor as its sole compensation for performance of the Work the following: (1) the amount of the Contract Sum allocable to the portion of the Work properly performed by Contractor as of the date of termination, less sums previously paid to Contractor; (2) reasonable costs of Contractor and its

Subcontractors and Sub-subcontractors for demobilizing and administering the close-out of its participation in the Project (including, without limitation, all billing and accounting functions, not including attorney or expert fees) for a period of no longer than thirty (30) days after receipt of the notice of termination in an amount not to exceed the daily sum payable to Contractor for Compensable Delays; (3) previously unpaid cost of any items delivered to the Project Site which were fabricated for subsequent incorporation in the Work.

22.8 Subcontractors. Contractor shall include provisions in all of its subcontracts, purchase orders and other contracts permitting termination for convenience by Contractor on terms that are consistent with this Contract and that afford no greater rights of recovery against Contractor than are afforded to Contractor under this Section.

22.9 Contractor's Duties Upon Termination. Upon receipt of a notice of termination for default or for convenience, Contractor shall, unless the notice directs otherwise, do the following: (1) immediately discontinue the Work to the extent specified in the notice; (2) place no further orders or subcontracts for materials, equipment, services or facilities, except as may be necessary for completion of such portion of the Work as is not discontinued; (3) provide to City a description, in writing no later than fifteen (15) days after receipt of the notice of termination, of all subcontracts, purchase orders and contracts that are outstanding, including, without limitation, the terms of the original price, any changes, payments, balance owing, the status of the portion of the Work covered and a copy of the subcontract, purchase order or contract and any written changes, amendments or modifications thereto, together with such other information as City may determine necessary in order to decide whether to accept assignment of or request Contractor to terminate the subcontract, purchase order or contract; (4) promptly assign to City those subcontracts, purchase orders or contracts, or portions thereof, that City elects to accept by assignment and cancel, on the most favorable terms reasonably possible, all subcontracts, purchase orders or contracts, or portions thereof, that City does not elect to accept by assignment; and (5) hereafter do only such Work as may be necessary to preserve and protect Work already in progress and to protect materials, plants, and equipment on the Project Site or in transit thereto.

23. CONTRACTOR'S RIGHTS AND REMEDIES. Contractor may terminate this Construction Contract for cause only upon the occurrence of one of the following: (1) the Work is stopped for sixty (60) consecutive days, through no act or fault of Contractor, any subcontractor or any employee or agent of Contractor or any subcontractor, due to issuance of an order of a court or other public authority other than City having jurisdiction or due to an act of government, such as a declaration of a national emergency making material unavailable; or (2) if the City does not make payment of sums that are not in good faith disputed by the City and does not cure such default within ninety (90) days after receipt of notice from Contractor, then upon an additional thirty (30) days' notice to City, Contractor may terminate the Contract.

23.1 Damages to Contractor. In the event of termination for cause by Contractor, City shall pay Contractor the sums provided for in Section 21 above. Contractor agrees to accept such sums as its sole and exclusive compensation and agrees to waive any claim for other compensation or Losses, including, but not limited to, loss of anticipated profits, loss of revenue, lost opportunity, or other consequential, direct, indirect and incidental damages, of any kind.

24. NOTICES. Any notices or other communications required or permitted to be given under this Contract shall be given in writing by personal delivery, by a recognized courier service, or by U.S. mail, postage prepaid, and return receipt requested, addressed to the respective parties as follows:

To City:

Assistant Public Works Director/City Engineer
City of Menlo Park
City Hall, 701 Laurel St.
Menlo Park, CA 94025

To Contractor:

Ramdy C. Somerday
McGuire and Hester
2810 Harbor Bay Parkway
Alameda, CA 94502

25. Notice shall be deemed communicated on the earlier of actual receipt or 48 hours after deposit in the U.S. mail, or the date of delivery shown on deliverer's receipt. In the event of any change of address, the moving party is obligated to notify the other party of the change of address in writing within a reasonable period of time.

In addition, copies of all Claims by Contractor under this contract shall be provided to the City Attorney as follows:

To City Attorney:

City Attorney
Burke, Williams & Sorensen, LLP
181 Third Street, Suite 200
San Rafael, CA 94901

All claims shall be delivered personally or sent by certified mail.

26. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY. In the performance of this Contract, Contractor shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental handicap, or medical condition. Contractor will take affirmative action to ensure that employees are treated without regard to race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental handicap, or medical condition.

27. CONTRACT DOCUMENTS AND PRECEDENCE. The Contract Documents shall consist of the following documents. In case of inconsistencies between Contract Documents, the documents are listed in order of precedence.

28. PUBLIC WORKS CLAIMS. This Contract is subject to Public Contracts Code Section 9204 governing contractor claims.

29. ATTORNEYS' FEES; VENUE. In the event that any party to this Contract commences any legal action or proceeding to enforce or interpret the provisions of this Contract, the prevailing party in such action or proceeding shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which the successful party may be entitled. The venue for any litigation shall be San Mateo County.

30. COOPERATION. In the event any claim or action is brought against the City relating to Contractor's performance or services under this Agreement, Contractor shall render any reasonable assistance and cooperation which City might require.

31. NUISANCE. Contractor shall not maintain, commit, nor permit the maintenance or commission of any nuisance in connection with the performance of services under this Contract.

32. GOVERNING LAW. This Contract shall be construed in accordance with and governed by the laws of the State of California.

33. COMPLETE AGREEMENT; SEVERABILITY. This Contract, and any other documents incorporated herein by reference, represent the entire and integrated agreement between the City and Contractor. This Contract supersedes all prior oral and written negotiations, representations or agreements. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Contract may only be modified by a written amendment duly executed by the parties to this Contract. In case a provision of this Contract is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected.

34. COUNTERPARTS. This Contract may be signed in multiple counterparts, which shall, when executed by all the parties constitute a single binding contract.

Signatures on next page.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

FOR FIRST PARTY:

Signature

Date

Printed name

Title

Tax ID#

APPROVED AS TO FORM:

Nira F. Doherty, City Attorney

Date

FOR CITY OF MENLO PARK:

Justin I. C. Murphy, City Manager

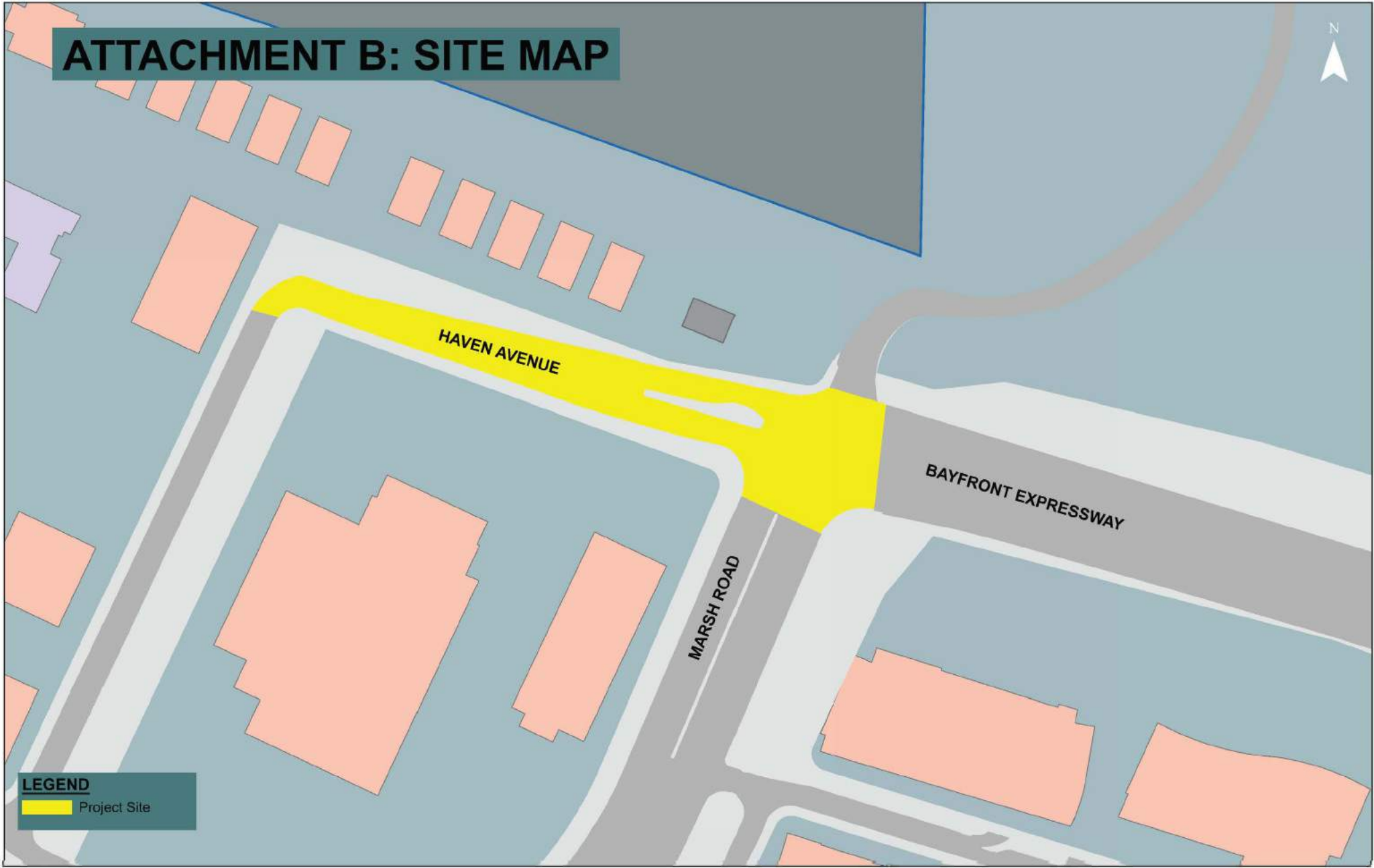
Date

ATTEST:

Judi A. Herren, City Clerk

Date

ATTACHMENT B: SITE MAP



LEGEND
Project Site



STAFF REPORT

City Council

Meeting Date:

6/13/2023

Staff Report Number:

23-141-CC

Public Hearing:

**Public hearing on proposed fiscal year 2023-24
budget and capital improvement plan**

Recommendation

Staff recommends that City Council:

1. Hold a public hearing on the proposed budget for fiscal year 2023-24 and capital improvement program (Attachment A), and
2. Provide direction on budget strategies and/or service level enhancements to incorporate into the fiscal year 2023-24 budget for adoption June 27, 2023.

Policy Issues

The City Council maintains responsibility for all budgetary appropriations. Under section 2.08.080(8) of the Menlo Park Municipal Code (MPMC), the city manager has the responsibility “to prepare and submit to the City Council the annual budget.” A public hearing on the city manager’s proposed budget is consistent with the City’s budgeting process.

Background

Preparation of the annual budget takes place primarily during the months of March through May and is informed by City Council direction including amendments to the current fiscal year’s budget, adoption of budget principles, and adoption of City Council priorities. The proposed budget was published May 31, 2023, for consideration by the community and City Council. A budget workshop was held June 1, 2023, to provide additional information about the budget and answer questions from the community. The presentation and recording of the workshop are available on the City’s website as Attachment A.

Analysis

Staff developed the city manager’s proposed fiscal year 2023-24 budget through a collaborative effort among the budget team, department contributors, OpenGov, consultants, members of the public, and the City Council. Consistent with the City Council budget principles and prior adopted guidance on fund segregation, all funds are fully funded with positive fund balances and one-time revenues are segregated from the General Fund. Also, annual surplus/(deficit) balances are presented to determine if a fund’s on-going cost are appropriate. This format ensures carryforward capital balances and first year request of the Five-Year Capital Improvement Plan (CIP) is sufficiently covered.

The city manager’s proposed budget entails a baseline spending plan for 290.5 full-time equivalent (FTEs) employees (base level from fiscal year 2022-23) and service level enhancements of six additional FTEs for the launch of services at the Menlo Park Community Campus (MPCC), for a total of 296.5 FTEs. The city manager’s budget is publicly presented through the City’s OpenGov portal which facilitates analysis and

discussion (Attachment A). The city manager's budget is developed with many revenue and expense assumptions discussed throughout these documents. The OpenGov platform facilitates scenario development and adjustments requested by City Council and members of the public. The City's move to an online budget portal through OpenGov has substantially changed the budget development process and provides an opportunity for greater transparency. The city manager's budget calendar includes a public hearing scheduled June 13 and final budget adoption June 27.

Budget strategies for City Council consideration

The proposed General Fund budget for fiscal year 2023-24 is balanced by using \$0.96 million in reserves as well as the remaining \$3.7 million of American Rescue Plan Act (ARPA) funds. The loss of the City's Utility Users Tax (UUT) and an initial estimate of \$4.5 million in refunds combined with growing demand for City services and rising costs of conducting business places increased pressure on the General Fund. Staff requests City Council direction on strategies to balance its General Fund budget without depleting reserves to an unacceptable level.

American Rescue Plan Act stimulus funds

Under guidance published by the U.S. Treasury Department Final Rule, agencies receiving ARPA funds may use a "revenue backfill" method or select a "standard allowance" with streamlined reporting requirements for revenue loss up to \$10 million, not to exceed the recipient's award amount. The City Council adopted Resolution No. 6756 to select the standard allowance for the \$8,300,000 in ARPA funds. In addition, the City Council authorized all but the remaining \$3.7 million of these funds and proposes to use this amount in its fiscal year 2023-24 budget.

Since 2020, the City has incurred an additional \$880,000 in ARPA-eligible expenses in support to businesses impacted by the pandemic through the outdoor dining grant program and downtown streetscape modifications; stormwater projects including the Chrysler Pump Station and San Francisquito Creek Upstream Flood Improvement Project; HVAC (heating, ventilation, and air conditioning) projects that installed MERV13 air filters at all city facilities and increased servicing of HVAC systems in all city facilities; technology upgrades including purchase of software, cell phones, monitors, workstation equipment that allowed for continuity of services during the pandemic; and a variety of COVID-19 testing and prevention activities including on-site testing, purchase of personal protective equipment (PPE), provision of hand sanitizer stations and public health signage, and supplemental paid sick leave (SPSL) leave for employees.

General Fund contribution to the Capital Improvement Program (CIP)

The fiscal year 2023-24 budget continues the \$3 million General Fund contribution to CIP. The City Council may consider reducing the General Fund contribution and relying more on restricted funding sources and grants. The five-year forecast assumes a reduced General Fund contribution of \$1 million starting in fiscal year 2024-25.

Additional Unfunded Accrued Liability (UAL) payment

The City Council may consider revising its adopted budget principle to implement annual payments to achieve amortization of the CalPERS net pension liability in accordance with the actuarial 15-year amortization schedule. The fiscal year 2023-24 proposed budget proposes a suspension of additional UAL payments, and the General Fund five-year forecast assumes continual suspension in fiscal year 2024-25 and \$500,000 payments in the following three years. This strategy would extend the amortization schedule. In 2014, the City Council adopted a resolution to create a strategic pension funding reserve. The reserve has been used to pay approximately \$1 million per year against the UAL.

One-time developer payments, Bayfront mitigation, Downtown Public Amenity and In-Lieu Community Amenities Funds

Under City Council direction, staff segregated these funds from the General Fund. Some of these funds may be used to maintain the General Fund's expenditures as well as contributions to capital projects in accordance with regulatory requirements. In particular, the City Council may consider using the One-Time Developer Payments Fund to maintain service levels and staffing at the MPCC.

Adjust master fee schedule

The City Council will consider an update to the master fee schedule at a regular meeting in August 2023 to better align fees with costs for services. Staff will engage an expert consultant to conduct a fee analysis. Note: This effort will include an equity assessment.

Potential service level reductions

The City Council may consider reducing certain contract services, such as median landscaping or transportation on-call support.

Potential revenue-generating ballot measures

The City Council may evaluate placing a revenue-generating measure on the November 2024 ballot for voter consideration, such as an increase to the Transient Occupancy Tax (TOT), sales tax or business license tax, or a new UUT. Finance staff conducted preliminary analysis to provide an approximate level of revenue generation capacity for ballot measures.

- An increase to the current 12% TOT between 1% and 3.5% could generate an additional \$875,000 to \$3 million annually.
- A newly authorized UUT measure adhering to the former tax rate structure could generate between \$1.8 million and \$5.8 million annually.
- An increase to the current 9.375% sales tax by \$0.25 or \$0.50 could generate approximately \$2 million and \$4 million annually.
- Additional analysis is needed to provide estimates and scenarios for business license tax revisions.

Reserve policies

City Council Procedure #CC-14-003 provides the fund balance policy that includes the Emergency Contingency Reserve, Economic Stabilization Reserve and Strategic Pension Funding Reserve. On April 25, 2023, the City Council directed staff to research reserve policies of neighboring cities to compare reserve policy target levels. Staff conducted initial research available in Attachment B, and will continue to investigate best practices. Note: reserves are a component in maintaining the City's AAA bond rating—the highest available credit rating—that enables access to better interest rates and financing options for capital projects and more.

Service level enhancement requests

A variety of service level enhancements (SLEs) are included in the proposed fiscal year 2023-24 budget for City Council consideration, summarized in Attachment C. These enhancements are intended to restore and/or improve services provided to the community with an on-going annual impact of 1.6 million. SLEs include several one-time purchases of equipment, implementation of new initiatives, and expenditures associated with the launch of MPCC. Note: All proposed additional FTEs are related to the MPCC, and an updated organizational chart is provided in Attachment D.

Fund balances in the General Fund

Forecasted fund balances through fiscal year 2022-23

Staff prepared General Fund forecasted fund balances through June 30, 2023 (Attachment E) using April year to date (YTD) actuals, compared to the prior forecast which used February YTD actuals presented at the March 18, 2023, City Council meeting. From the prior forecast, vehicle license fees increased \$0.6

million, license and permits are estimated to increase \$0.5 million, and current investment earnings increased approximately \$1 million. CalPERS and health care expenses were adjusted upward to 32% of salaries and wages, consistent with audited ratios, resulting in a \$4.3 million increase. Operating and services were adjusted downward for approximately \$3 million considering services not starting and existing encumbrances. Currently, the forecasted surplus through June 30, 2023, results from \$81 million in revenues offset by \$76.6 million in expenses, arriving at a positive \$4.4 million. Additionally, the unassigned fund balance is \$7.2 million and both the Emergency Contingency Reserve and Economic Stabilization Reserve are maintained at minimum policy levels.

Proposed budgeted fund balances through fiscal year 2023-24

Staff prepared General Fund fiscal year 2023-24 proposed budgeted fund balances (Attachment F) with \$75.3 million in revenues offset by \$76.3 million in expenses, arriving at a negative \$0.96 million. Currently, the proposed budget forecasts through June 30, 2024, an unassigned fund balance is \$6.3 million and both the Emergency Contingency Reserve and Economic Stabilization Reserve maintained at minimum policy levels. The proposed budget incorporates a 10% vacancy rate based on start date analysis for planned recruitments, suspends the additional UAL payment from the Strategic Pension Funding Reserve, and excludes the one-time developer payment fund (Fund 111) from the General Fund for budgeting purposes. Note: Since the June 1, 2023, public budget workshop, staff adjusted Vehicle License Fee (VLF) revenue based on the latest information from HdL, increasing the total VLF revenue by \$1.8 million.

Table 1: General Fund balance components (excluding Fund 111)	
Item	Estimated balance
Audited fund balance June 30, 2022	\$32,882,360
Estimated fund balance June 30, 2023	\$37,351,997
Fund Balance Reserve components	
Non-spendable prepaids	\$446,047
Projects related, encumbrance	\$540,643
Strategic pension funding reserve	\$2,288,492
Emergency contingency reserve	\$11,490,466
Economic stabilization reserve	\$15,320,621
Unassigned fund balance	\$7,265,728
Ending fund balance June 30, 2024	\$36,386,850
Fund Balance Reserve components	
Non-spendable prepaids	\$446,047
Project related, encumbrance	\$540,643
Strategic pension funding reserve	\$2,288,492
Emergency contingency reserve	\$11,448,165
Economic stabilization reserve	\$15,264,220
Unassigned fund balance	\$6,398,284

Non-departmental budgets

Under City Council direction, staff segregated one-time as well as other developer deposits and activity from the general fund to improve ongoing cost estimates. Staff is not recommending recovery of the Vehicle Replacement Fund's budget this year as the estimated \$1.8 million fund balance is sufficient. Non-departmental budgets consist of the following:

Revenues:

- Developer payment (Fund 111) - \$1.3 million Meta (formerly Facebook) development agreements
- Community amenities (Fund 369) - \$4.8 million for Menlo Flats, \$16.1 million for 1350 Adams Ct., \$3.5 million for 1125 O'Brien Dr.
- Measure T bond assessments - \$2.4 million
- Internal Service Funds budget (allocated by FTEs)

Expenses:

- ARPA (Fund 397) - \$3.7 million (funds must be spent by December 2024)
- Measure T Bonds - \$2.4 million debt service
- Measure T Bonds - \$8.8 million for MPCC, \$3.1 million for Willow Oaks, \$0.7 million for Burgess Park playground equipment
- Internal Service Funds budget (allocated by FTEs)

General Fund five-year forecast

The General Fund five-year forecast (Attachment G) reflects adopted budgeting principals and assists the City Council with long-term strategic decisions for the City's largest operating fund. The goal of the five-year forecast is to present the City Council with an outlook for a sustainable General Fund over the next five years. Revenue and expenditure assumptions in the forecast are based on current financial projections. The model received input from a variety of sources, including the executive team and expert consultants. For example, tax revenue projections are provided by HdL Companies (HdL), MuniServices, and the County of San Mateo.

Revenues:

- Property taxes forecasted by HdL at 4.6% annual growth
- Sales taxes forecasted by MuniServices at 4% annual growth
- TOT forecasted by HdL at 5% annual growth
- UUT is excluded
- Excess Educational Revenue Augmentation Fund (ERAF) is estimated at proposed budget (no growth)
- Licenses and permits estimated at 4% annual growth over proposed budget
- Other revenues include \$1 million annual disbursement from California Employer's Retiree Benefit Trust (CERBT) for retiree premiums
- Transfers for fiscal year 2023-24 are \$3.7 million ARPA and \$0.5 million for assessment and solid waste support

Expenses:

- Salaries and wages at 240 FTEs, cost of living (COLA) of 3% and merit increases of 1% annually (subject to labor negotiations)
- Benefits unrelated to retirement increased annually by 3% based on consumer price index (CPI) adjustment
- Retirement benefits utilize the most recent CalPERS actuarial report
- Additional UAL payment is suspended in year one and two, applied at \$500,000 in years three to five
- Vacant factor reduced from 10% (24 FTEs) to 7% (16.8 FTEs) over five-year period

- Services and operating expenses increase annually by 3% based on CPI adjustment
- Transfer for CIP support of \$3 million in year one, reduced to \$1 million in following years
- UUT is refunded in year two

The five-year forecast projects that total reserve balance trends downward from \$36.3 million to \$25.1 million over the five-year period. The City Council’s Emergency Contingency Reserve is maintained at the minimum policy level of 15% of the adopted budget. The Economic Stabilization Reserve falls below the minimum policy level of 20% of the adopted budget in fiscal year 2024-25 and decreases to 5% in year five. In addition, the unassigned reserve balance decreases to \$0.25 million for the last three years of the forecast to maintain the necessary minimum liquidity for cash flow to cover operating expenses.

Proposed five-year capital improvement program

Over the last three years, the capital program was constrained by available funding and staff resources to complete projects. In fiscal year 2020-21, the overall program budget was reduced by over 30% in response to anticipated revenue shortfalls in light of the pandemic. In fiscal year 2021-22, program funding levels were restored to typical levels, but deferred maintenance and new project needs have continued to outpace available funds and resources. As shown in Table 2, proposed in fiscal year 2023-24 are 81 funded and carry-over projects, with eight new projects. Twenty-six projects are proposed to receive new funds of approximately \$14.6 million. Funding sources used include general capital funds, water capital funds, transportation impact fees, grants and donations, and sales tax measures such as San Mateo County Measures A and W for transportation and street projects. After the May 9 study session on the capital program, two additional project funding requests were added:

- Community amenities funds for Belle Haven Parks Improvement project, as directed by the City Council May 9. \$0.3 million is requested for fiscal year 2023-24 to initiate this project.
- Grants and donation funds for implementation of SAFER Bay. The City was notified May 26 that the first phase of the grant for this project has been obligated. Staff has updated the expenditures anticipated for this project over the five-year horizon of the capital program. For fiscal year 2023-24, \$4 million in expenses are anticipated. The entire project cost estimate is \$67 million.

The summary of funding requests in Table 2 reflects this change.

Category	Proposed request	Funding sources
City buildings and systems	\$1,224,000	General capital
Environment	\$1,692,000	General capital, grants
Parks and recreation	\$1,468,000	Recreation in-lieu, general capital, community amenities
Stormwater	\$4,065,000	General capital, grants, donations
Streets and sidewalks	\$2,700,000	Sidewalk assessment, general capital, construction street impact fee, highway users (gas) tax, etc.
Traffic and transportation	\$2,200,000	Transportation impact fees, grants, Measures A and W, transportation
Water system	\$1,208,000	Water capital
Total	\$14,557,000	

In addition to those projects summarized in Table 2, staff is continuing to track three other resource needs for upcoming projects that are continuing to evolve: funding for MPCC, erosion at the Alma Street bridges over San Francisquito Creek, and the pedestrian/bicycle trail under Junipero Serra Boulevard at Sand Hill Road/Alpine Road adjacent to the Stanford Golf Course. As these project needs are further refined, they may result in changes to the funding and priorities in the CIP.

A funding agreement with the City of Palo Alto and Caltrain is anticipated to be scheduled for the City Council's consideration July 11 for the erosion at the Alma Street railroad and pedestrian/bicycle bridges from the winter 2022-23 storms. Caltrain is leading these emergency repairs and is coordinating with both cities to address the area around both bridges.

City Council direction

Staff requests direction from the City Council after considering budget strategies, the proposed budget including SLEs, and five-year forecast assumptions. Staff will incorporate this direction into the fiscal year 2023-24 budget for adoption June 27, 2023. Items without a clear majority to include or exclude may be deliberated after the fiscal year and incorporated as amendments to the budget if resources allow. The following draft resolutions will require adoption prior to July 1, 2023.

Draft resolutions

Adoption of the fiscal year 2023-24 budget and CIP (Attachment H)

This resolution formally appropriates funds and allows for expenditures during the fiscal year. The total appropriation amounts by fund is pending additional direction by City Council but will be included after incorporating direction received June 13.

Appropriations limit (Attachment I)

California Government Code sets a limit on appropriations based on a number of factors including the prior limit, population change and COLA changes. This resolution establishes the appropriations limit for fiscal year 2023-24.

Salary schedule amendments (Attachment J)

The salary schedule is being updated to reflect a three percent (3%) general salary increase for the Police Officers' Association (POA) and Police Sergeants' Association (PSA), pursuant to their current memoranda of understanding ending Aug. 31, 2024, and June 30, 2025, respectively. The POA salary increase is scheduled to become effective the beginning of the first full pay period following July 1, 2023, which is July 2, 2023. The salary provision included in the PSA MOU requires that the current minimum base pay differential of fifteen percent (15%) between top step police corporal and top step sergeant is maintained. In effect, this means that PSA will receive approximately the same three percent (3%) increase as POA scheduled to take effect July 2, 2023. No other salary schedule amendments are proposed at this time. Pending the City Council's decision on the proposed MPCC FTEs (Attachments C and D), one new classification focused on nutrition services will be added to the salary schedule at a future date.

Rate assistance program (Attachment K)

The City established a rate assistance pilot program for solid waste and water utilities in June 2020. This resolution extends the rate assistance program through June 30, 2024. This program is funded with non-rate revenues from the General Fund's unassigned fund balance.

Award authority (Attachment L)

City Council Procedure #21-024-CC establishes award authority and bid requirements and includes an annual adjustment in purchasing limits according to inflation. The inflation from 2022 to 2023 results in a \$7,000 increase in the city manager's signature authority, as indicated in the authority memo for fiscal year

2023-24.

Anticipated budget amendments during fiscal year 2023-24 mid-year budget review

City Council typically conducts a mid-year budget review during the third quarter of each fiscal year, generally in February. Staff will monitor grants and future authorizations from the City Council to include in the mid-year budget amendments, including a \$50,000 Measure K grant award from the County of San Mateo to offset costs for the Police Department's SLE related to voice logging equipment.

Next steps for the fiscal year 2023-24 budget

June 27, 2023: Adoption of the fiscal year 2023-24 budget

August 2023: Publication of the fiscal year 2023-24 adopted budget document

Impact on City Resources

There is no impact on City resources.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Hyperlink – City budget (fiscal year 2023-24 proposed budget and CIP, budget workshop presentation and recording): menlopark.gov/budget
- B. Reserve policy research
- C. SLEs
- D. Service level restoration – MPCC
- E. Fiscal year 2022-23 forecasted fund balances
- F. Fiscal year 2023-24 proposed budgeted fund balances
- G. General Fund five-year forecast
- H. Draft resolution adopting the fiscal year 2023-24 budget and CIP
- I. Draft resolution establishing the appropriations limit
- J. Draft resolution amending the salary schedule effective July 2, 2023
- K. Draft resolution extending the rate assistance program
- L. Draft award authority memo for fiscal year 2023-24

Report prepared by:

Marvin Davis, Interim Finance Director

Brittany Mello, Administrative Services Director

Nikki Nagaya, Deputy City Manager

Stephen Stolte, Assistant City Manager

Reserve policy research	
City / Town	Reserve Policy
Town of Atherton	Emergency Reserve: 15% Budget Stabilization Reserve: 20%
City of Belmont	General Fund Reserve: 33%
City of Brisbane	Natural Disaster Reserve: \$3.5M Economic Reserve: \$2.8M Budget Contingency: 5%
City of Burlingame	Economic Reserve: 24% Catastrophic Reserve: 2-9% Contingency Reserve: \$0.5M
City of Daly City	General Fund Reserve: 17%
City of East Palo Alto	Contingency Reserve: 35%
City of Half Moon Bay	General Fund Reserve: 30% Economic Reserve: 20%
City of Menlo Park	Emergency Reserve: 15-20% Economic Reserve: 20-25%
City of Millbrae	General Fund Reserve: 15%
City of Pacifica	General Fund Reserve: 10%
City of Redwood City	General Fund Reserve: 15-20%
City of San Bruno	General Fund Reserve: 25% Contingency Reserve: \$1.5M
City of San Carlos	Economic Reserve: 12.5-20%
City of San Mateo	General Fund Reserve: 25%
City of South San Francisco	General Fund Reserve: 15-20%
Town of Woodside	General Fund Reserve: 30%
Foster City	General Fund Reserve: 33.3-50%
Town of Colma	Budget Stabilization Reserve: 100% of prior yr expenses
Town of Hillsborough	General Fund Reserve: 30-50%
Town of Portola Valley	General Fund Reserve: 60%

Attachment C: Service level enhancements		Expenses		
Department / Division	SLE description request	Revenues	One-time	On-going
Recreation	MPCC: Operating revenues: Fees, rentals, charges, reimbursements, donations	\$715,000		
Recreation: Library	MPCC: 2 FTEs: Lead and support staff for library services at MPCC			\$249,096
Recreation: Gymnasium	MPCC: 2 FTEs: Lead and support staff for gymnasium services			265,671
Recreation: Seniors	MPCC: 1 FTE: Lead staff for senior citizen meal service			140,631
Recreation: Operations	MPCC: 1 FTE: Building supervision			190,291
Recreation: Various	MPCC: Operating expenses: Temp labor, supplies, contracts, IT support, repairs & maintenance, utilities, training			1,141,000
Community Dev: Housing	Implementation of anti-displacement strategies and .2 FTE			187,500
Police: Patrol	Flock cameras to capture vehicle, pedestrian and bicycles activity In car cameras to enhance capturing scene activity Community Wellness and Crisis Response Team (CWCRT)		940,344	80,000
Police: Communications	Voice logging equipment (GC 34090, CCP337) on dispatch calls, Staff has submitted for grant funding		104,120	
Public Works: Parks	Equipment for zero emission landscaping ordinance (ZELE)		200,000	
CMO: Clerk	Planning commissioner stipend			16,800
CMO: Sustainability	Electric gardening rebate program			35,000
CMO: City Manager	Diversity, Equity, Inclusion, and Belonging Initiatives			51,000
Total Citywide		\$715,000	\$1,244,464	\$2,356,989
			On-going Total	-\$1,641,989

Library and Community Services

**MEMORANDUM****Date: 6/13/2023****To: City Council****From: Library and Community Services Director****Re: Fiscal year 2023-24 Service level restoration – Menlo Park Community Campus**

The Menlo Park Community Campus (MPCC) is on track to open during fiscal year 2023-24. To operate the new facility, some existing services and personnel that are currently housed in interim locations will be relocated to the new facility, including the senior center, youth center and branch library. Additionally, some new personnel and resources are needed to operate the facility in the manner and capacity envisioned by the City Council and the community. For this reason, the fiscal year (FY) 2023-24 proposed budget includes service level restoration requests to:

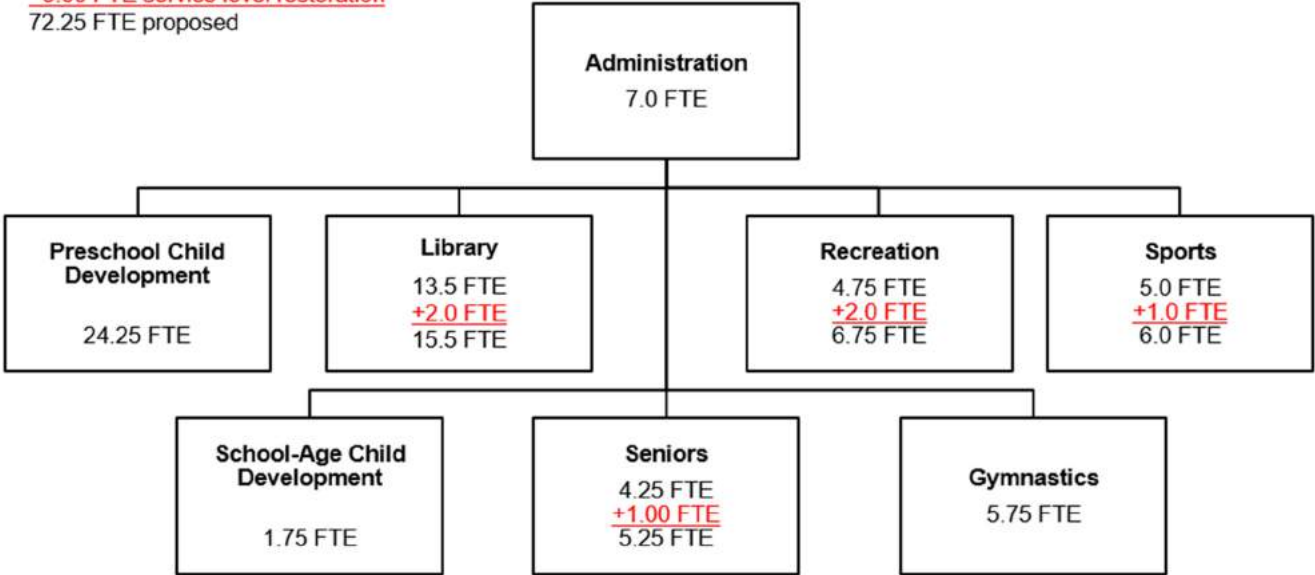
- Restore operations that were suspended or reduced during the MPCC construction, such as gymnasium, fitness center, recreation services, aquatics center and facility rentals
- Staff an expanded public library space that spans two floors instead of the current one floor space
- Support new services, such as makerspace and teen zone
- Create a new job classification to support enhanced nutrition services, planning and preparation of nutritious meals for senior center and youth center participants, provide nutrition and health/wellness education services to program participants
- Reinstate overhead and operating costs such as utilities, supplies and services.

The service level restoration proposal includes 6.0 full-time equivalent (FTE) new/restored personnel for approximately \$965,000 in personnel expenses, plus \$1.02 million in non-personnel operating expenses offset by \$715,000 in projected revenues. Operating expenses and revenues are presented in amounts representing a full year of operations; however, it is assumed that operations at the MPCC facility are likely to begin approximately halfway through the fiscal year (early 2024). The service level restoration request is outlined in the FY 2023-24 proposed budget. The following illustrations provide additional detail about the requested personnel.

Position*	FTE	Operational/programming need
Librarian I/II	1.00	Lead staff for expanded library space, makerspace, teen zone
Library Assistant I	1.00	Support staff for expanded library space, makerspace, teen zone
Recreation Coordinator	1.00	Lead staff for gymnasium, fitness center, facility rentals
Senior Program Assistant	1.00	Support staff for gymnasium, fitness center, facility rentals
Nutrition Services Coordinator	1.00	Lead staff for senior center daily meal service, youth center food service, nutrition/health/wellness education
LCS Supervisor	1.00	Building supervisor - operations, athletic field use, and site liaison to aquatics provider
Temporary staff (\$120,000)		Front line customer service support at 3 primary service points seven days/ 63+ hours per week, plus room set up, facility attendants for rentals, and related tasks
Total	6.00	\$965,000

**Library and Community Services
Proposed FY 2023-24**

66.25 FTE baseline
+6.00 FTE service level restoration
 72.25 FTE proposed



General Fund (excl Fund 111)	FY 2022-23 Fcst				
	6/30/2022	Rev & TI	Exp & TO	Sur/(Def)	6/30/2023
100 General	\$ 32,882,360	\$ 81,072,742	\$ 76,603,105	\$ 4,469,637	\$ 37,351,997
Non-spendable prepaids	446,047				446,047
Project related, encumb	1,540,643				540,643
Strategic pension funding	3,250,860			Actual	2,288,492
Emergency (Policy: 15-20%)	12,064,534			15%	11,490,466
Economic (Policy: 20-25%)	15,000,000			20%	15,320,621
Unassigned	580,276				7,265,728
Total Reserve Breakdown	32,882,360				37,351,997
One-time, Developer, In-lieu					
111 One-time Revenue	1,350,000	1,450,000	-	1,450,000	2,800,000
332 Bayfront Impact	6,760,554	2,593,451	-	2,593,451	9,354,005
353 Downtown Public Amenity	2,442,080	10,000	-	10,000	2,452,080
369 Community Amenities	9,405,000	-	-	-	9,405,000
Housing Activity					
221 Housing Special Revenue	6,602,921	1,064	24,000	(22,936)	6,579,985
222 Below Mrkt Rt Housing Spec Rev	32,538,570	6,847,779	439,967	6,407,812	38,946,382
223 Federal Revenue Sharing	121,787	500	4,000	(3,500)	118,287
224 Community Devlpmt Block Grant	1,381,809	1,500	4,000	(2,500)	1,379,309
364 HUT Repair and Maintenance	-	793,824	-	793,824	793,824
394 Communitywide Electrification Efforts	-	-	-	-	-
Library & Community Service					
202 Miscellaneous Trust	155,521	145,000	145,000	-	155,521
203 Donations - Library and Community Se	348,051	151,044	-	151,044	499,095
204 Maria S Hoffman Donation Senio	-	266,189	-	266,189	266,189
251 Big Lift	-	295,000	187,200	107,800	107,800
252 Childcare Food	-	85,000	85,000	-	-
253 Belle Haven Child Devlpmt Ctr	-	2,003,000	1,552,942	450,058	450,058
254 Preschool-QRIS	4,562	12,000	-	12,000	16,562
256 Recreation In-Lieu	2,869,135	88,200	3,000,000	(2,911,800)	(42,665)
304 Menlo Park Community Campus	4,561,827	3,000,000	5,124,379	(2,124,379)	2,437,448
305 Diverse Literature LSTA	7,963	20,000	20,000	-	7,963
334 BCSS Wellness Grant	-	-	-	-	-
Police Enforcement					
327 Supp Law Enforcement Services	305,494	284,689	145,203	139,486	444,980
328 Downtown Parking Permits	4,449,378	112,711	195,600	(82,889)	4,366,489
Transportation. Streets, Maint					
211 Heritage Tree	419,936	10,000	-	10,000	429,936
213 CalRecycle SB1383 Local Grant	50,108	25,000	25,000	-	50,108
255 Senior Transportation	-	43,700	-	43,700	43,700
329 OTS Grant	557	24,025	-	24,025	24,582
351 Transportation Impact Fees	9,269,907	10,191,160	251,222	9,939,938	19,209,845
352 Transportation	871,875	-	19,488	(19,488)	852,387
354 Storm Drainage Fees	93,914	137,565	97,000	40,565	134,479
355 Shuttle Program	-	1,293,151	1,170,028	123,123	123,123
356 County Transp Tax (Measure A)	965,258	1,002,551	1,045,622	(43,071)	922,187
357 Highway Users (Gas Tax)	2,874,195	1,029,129	132,751	896,378	3,770,573
358 Landscape/Tree Assessment	743,057	1,289,757	1,244,284	45,473	788,530
359 Sidewalk Assessment	90,831	305,838	27,050	278,788	369,619
360 Measure M	87,724	140,000	140,000	-	87,724
361 Storm Water Management(NPDES)	383,316	377,509	468,839	(91,330)	291,986
362 Construction Impact Fee	6,027,315	1,322,962	86,525	1,236,437	7,263,752
363 Measure W	1,184,982	429,119	-	429,119	1,614,101
365 Landfill Post-Closure	7,939,049	932,116	527,575	404,541	8,343,590
375 CA Coastal Consv Priority Grt	-	500,000	-	500,000	500,000
376 Caltrans	-	426,000	-	426,000	426,000
377 California State Parks Dept	-	798,950	-	798,950	798,950
368 Bayfront Park Maintenance	646,764	3,000	254,721	(251,721)	395,043
501 General Capital Improvement	23,735,241	7,551,816	2,732,518	4,819,298	28,554,539
370 Haven Avenue Streetscape Grant	-	-	-	-	-
396 CA Arrearage Program Water Res	11,314	-	-	-	-

Attachment E: FY 2022-23 Forecasted Fund Balances

General Fund (excl Fund 111)	FY 2022-23 Fcst				6/30/2023
	6/30/2022	Rev & TI	Exp & TO	Sur/(Def)	
Debt Service					
400 Library GO Bond 1990	351,403	1,500	360,000	(358,500)	(7,097)
401 Measure T GO Bonds	19,800,019	2,365,456	2,350,456	15,000	19,815,019
510 Library Addition	118,662	2,000	121,000	(119,000)	(338)
521 SMC Transportation Authority	-	170,000	-	170,000	170,000
Water Activity					
600 Water Capital	20,246,487	2,486,387	997,498	1,488,889	21,735,376
601 Water Operations	29,342,228	14,836,457	11,292,015	3,544,442	32,886,670
610 Solid Waste Service	3,145,626	692,456	372,989	319,467	3,465,093
Internal Services					
701 Workers' Compensation	962,963	928,488	1,835,435	(906,947)	56,016
702 General Liability	(661,801)	2,582,824	1,648,294	934,530	272,729
703 Other Post Employment Benefits	824,278	-	1,062,323	(1,062,323)	(238,045)
704 IT Internal Service	1,801,504	3,752,348	5,861,977	(2,109,629)	(308,125)
705 Vehicle Replacement	4,046,069	1,446,162	1,443,373	2,789	4,048,858

General Fund (excl Fund 111)	FY 2022-23 Fcst	FY 2023-24 Budget					6/30/2024
	6/30/2023	Rev & TI	Exp & TO	CIP Rev	CIP Exp	Sur/(Def)	
100 General	\$ 37,351,997	\$ 75,354,952	\$ 76,321,098	\$ -	\$ -	\$ (966,147)	\$ 36,385,850
Non-spendable prepaids	446,047						446,047
Project related, encumb	540,643						540,643
Strategic pension funding	2,288,492					Actual %	2,288,492
Emergency (Policy: 15-20%)	11,490,466					15%	11,448,165
Economic (Policy: 20-25%)	15,320,621					20%	15,264,220
Unassigned	7,265,728						6,398,284
Total Reserve Breakdown	37,351,997						36,385,850
One-time, Developer, In-lieu							
111 One-time Revenue	2,800,000	1,350,000	-	-	-	1,350,000	4,150,000
332 Bayfront Impact	9,354,005	-	-	-	-	-	9,354,005
353 Downtown Public Amenity	2,452,080	10,000	-	-	748,718	(738,718)	1,713,362
369 Community Amenities	9,405,000	24,400,000	-	-	300,000	24,100,000	33,505,000
Housing Activity							
221 Housing Special Revenue	6,579,985	1,000	24,000	-	-	(23,000)	6,556,985
222 Below Mrkt Rt Housing Spec Rev	38,946,382	3,096,433	661,999	-	-	2,434,434	41,380,816
223 Federal Revenue Sharing	118,287	500	4,000	-	-	(3,500)	114,787
224 Community Devlpmt Block Grant	1,379,309	1,500	4,000	-	-	(2,500)	1,376,809
364 HUT Repair and Maintenance	793,824	844,369	-	-	1,550,000	(705,631)	88,193
394 Communitywide Electrification Efforts	-	2,250,000	2,250,000	-	-	-	-
Library & Community Service							
202 Miscellaneous Trust	155,521	145,000	145,000	-	-	-	155,521
203 Donations - Library and Community Se	499,095	295,000	-	-	-	295,000	794,095
204 Maria S Hoffman Donation Senio	266,189	-	-	-	-	-	266,189
251 Big Lift	107,800	295,000	260,109	-	-	34,891	142,691
252 Childcare Food	-	85,000	85,000	-	-	-	-
253 Belle Haven Child Devlpmt Ctr	450,058	2,003,000	2,236,023	-	-	(233,023)	217,035
254 Preschool-QRIS	16,562	12,000	-	-	-	12,000	28,562
256 Recreation In-Lieu	(42,665)	1,488,200	-	725,414	1,650,779	562,835	520,170
304 Menlo Park Community Campus	2,437,448	-	-	7,297,000	9,077,164	(1,780,164)	657,284
305 Diverse Literature LSTA	7,963	20,000	20,000	-	-	-	7,963
334 BCSS Wellness Grant	-	28,785	-	-	-	28,785	28,785
Police Enforcement							
327 Supp Law Enforcement Services	444,980	100,000	100,000	-	-	-	444,980
328 Downtown Parking Permits	4,366,489	-	202,450	-	2,400,000	(2,602,450)	1,764,039
Transportation. Streets, Maint							
211 Heritage Tree	429,936	160,000	-	-	250,000	(90,000)	339,936
213 CalRecycle SB1383 Local Grant	50,108	-	-	-	-	-	50,108
255 Senior Transportation	43,700	-	-	-	-	-	43,700
329 OTS Grant	24,582	70,000	-	-	-	70,000	94,582
351 Transportation Impact Fees	19,209,845	2,250,000	-	7,900,000	14,205,954	(4,055,954)	15,153,891
352 Transportation	852,387	-	-	-	814,335	(814,335)	38,052
354 Storm Drainage Fees	134,479	100,000	100,000	-	-	-	134,479
355 Shuttle Program	123,123	1,004,937	1,126,648	-	-	(121,711)	1,412
356 County Transp Tax (Measure A)	922,187	1,200,000	1,472,700	400,000	804,940	(677,640)	244,547
357 Highway Users (Gas Tax)	3,770,573	980,962	19,692	-	3,394,548	(2,433,278)	1,337,295
358 Landscape/Tree Assessment	788,530	922,542	1,329,792	-	-	(407,250)	381,280
359 Sidewalk Assessment	369,619	332,476	27,050	-	350,000	(44,574)	325,045
360 Measure M	87,724	140,000	140,000	-	-	-	87,724
361 Storm Water Management(NPDES)	291,986	381,102	525,444	-	-	(144,342)	147,644
362 Construction Impact Fee	7,263,752	865,000	88,600	-	3,500,000	(2,723,600)	4,540,152
363 Measure W	1,614,101	550,000	-	-	900,000	(350,000)	1,264,101
365 Landfill Post-Closure	8,343,590	970,083	586,994	-	3,707,212	(3,324,123)	5,019,467
375 CA Coastal Conserv Priority Grt	500,000	-	-	500,000	-	500,000	1,000,000
376 Caltrans	426,000	-	-	426,000	-	426,000	852,000
377 California State Parks Dept	798,950	-	-	798,950	-	798,950	1,597,900
368 Bayfront Park Maintenance	395,043	3,000	264,501	-	-	(261,501)	133,542
501 General Capital Improvement	28,554,539	20,000	2,092,618	15,910,987	39,833,474	(25,995,105)	2,559,434
370 Haven Avenue Streetscape Grant	-	-	-	-	-	-	-
396 CA Arrearage Program Water Res	11,314	-	-	-	-	-	11,314

Attachment F: FY 2023-24 Budgeted Fund Balances

General Fund (excl Fund 111)	FY 2022-23 Fcst	FY 2023-24 Budget					6/30/2024
	6/30/2023	Rev & TI	Exp & TO	CIP Rev	CIP Exp	Sur/(Def)	
Debt Service							
400 Library GO Bond 1990	(7,097)	12,545	-	-	-	12,545	5,448
401 Measure T GO Bonds	19,815,019	2,375,456	14,975,870	-	-	(12,600,414)	7,214,605
510 Library Addition	(338)	750	-	-	-	750	412
521 SMC Transportation Authority	170,000	-	-	1,470,000	-	1,470,000	1,640,000
Water Activity							
600 Water Capital	21,735,376	2,144,926	328,711	500,000	16,514,202	(14,197,987)	7,537,389
601 Water Operations	32,886,670	12,096,200	10,904,658	-	-	1,191,542	34,078,212
610 Solid Waste Service	3,465,093	674,038	444,568	-	-	229,470	3,694,563
Internal Services							
701 Workers' Compensation	56,016	821,538	832,401	-	-	(10,863)	45,153
702 General Liability	272,729	2,259,829	2,259,738	-	-	91	272,820
703 Other Post Employment Benefits	(238,045)	878,486	640,095	-	-	238,391	346
704 IT Internal Service	(308,125)	4,848,420	4,521,587	-	-	326,833	18,708
705 Vehicle Replacement	4,048,858	-	2,189,802	-	-	(2,189,802)	1,859,056

City of Menlo Park

General Fund 5 Year Forecast
Fiscal Year 2023-24 through 2027-28



General Fund 5 Year Forecast: Attachment G

General Fund 5 Year Forecast (FY 2023-24 thru 2027-28): Assumptions

The objectives of the forecast are to demonstrate reserve levels after covering operating and capital project transfers. The forecast is developed as closely as possible to a cash flow projection rather than a full accrual estimate, thus excluding receivables, payables, depreciation, amortization, and certain unrealized gains & losses. The details in this tool are used by management in forecasting receipts (revenues), disbursements (expenses) and cash reserves. The City maintains the accounting system in accordance with Generally Accepted Accounting Principles (GAAP) adopted by the Governmental Accounting Standards Board (GASB). The forecast period (2023-24 thru 2028) uses the proposed budget year 2023-24 as the base.

<u>Revenues:</u>						
Property Taxes	4.6%	HdL projection for 5 year secured, unsecured, VLF in lieu property tax, Other taxes are reduced by \$224K admin fee				
Sales Taxes	4.0%	MuniServices 5 year projection				
TOT	5.0%	HdL provides TOT audit and reviews forecast, includes citizenM				
Utility User Tax	0.0%	Removed from forecast				
Excess ERAF	0.0%	Same level as proposed budget, no growth				
RPPTF	0.0%	Using recent update from County of San Mateo, same level from proposed budget, no growth				
Licenses & Permits	4.0%	Estiamted 4% annual growth over proposed budget				
Other revenues	3.0%	Includes \$1 million from CERBT for retiree health premiums, projected 3% annual growth				
Charges for Services	2.0%	Projected increase in demand for services				
Interest Income	-	Reduces based on fund balance				
Transfers (over forecast)	\$6,334,830	2024 - ARPA: \$3.7 million (pending City Council direction)Other: landscape, tree, park, solid waste support				
<u>Expenditures:</u>						
Salaries and Wages	4.0%	Subject to labor negotiations				
Benefits - Non PERS	3.0%	CPI inflation adjustment				
Benefits - PERS (over forecast)	-	Based on most recent CalPERS actuarial report; Misc at -7.2%, Safety at -4% (Suspend UAL first 2 years)				
			2024	2025	2026	2027
Vacancy factor			10.0%	9.0%	8.0%	7.0%
Services, Repairs, etc	3.0%	CPI inflation adjustment				
Operating	3.0%	CPI inflation adjustment				
Transfers (over forecast)	\$10,104,313	CIP \$1 million annual support after 2023-24 with 3% ENCCI; Other: landscape, tree, park, solid waste support				
<u>Staffing: FTEs</u>			2024	2025	2026	2027
100 General Administration			18.36	18.36	18.36	18.36
140 Administrative Services			17.75	17.75	17.75	17.75
200 Police			69.50	69.50	69.50	69.50
300 Public Works			43.61	43.61	43.61	43.61
500 Library and Community Svcs			57.25	57.25	57.25	57.25
600 Community Development			33.50	33.50	33.50	33.50
Total			239.97	239.97	239.97	239.97

General Fund 5 Year Forecast: Attachment G

General Fund 5 Year Forecast (FY 2023-24 thru 2027-28): Revenue & Expense Statement

	Proposed							Annual Growth
	2022 Act	2023 Fcst	2024 Bud	2025	2026	2027	2028	
Revenue								
Property taxes: Secured	\$ 19,572,790	\$ 20,681,996	\$ 21,879,747	\$ 22,656,694	\$ 23,668,778	\$ 24,879,451	\$ 26,177,955	4.6%
Property taxes: VLF	5,265,733	6,948,161	6,550,825	6,785,345	7,090,007	7,453,015	7,843,553	4.6%
Excess ERAF	4,410,741	4,178,538	4,168,229	4,168,229	4,168,229	4,168,229	4,168,229	
RPTTF	1,816,169	3,296,750	2,510,372	2,510,372	2,510,372	2,510,372	2,510,372	
Property taxes: Other	1,664,790	1,753,738	1,578,503	1,650,892	1,726,602	1,805,783	1,888,595	
Sales Taxes	6,534,862	6,621,444	6,886,302	7,161,754	7,448,224	7,746,153	8,055,999	
TOT	9,404,440	10,000,000	10,500,000	11,025,000	11,576,250	12,155,063	12,762,816	
Utility User Tax	1,562,407	1,647,858	-	-	-	-	-	
Licenses & Permits	5,987,374	5,690,231	5,128,500	5,333,640	5,546,986	5,768,865	5,999,620	
Fines, Rental, Govt, Other	3,799,563	4,309,327	4,290,494	4,419,209	4,551,785	4,688,339	4,828,989	
Charges for Services	4,911,158	6,017,168	5,420,750	5,529,165	5,639,748	5,752,543	5,867,594	
Interest Income	1,430,530	2,200,000	2,200,000	2,110,379	1,961,133	1,768,132	1,593,078	
Transfer In	875,508	7,727,531	4,241,230	523,400	523,400	523,400	523,400	
Total revenue	67,236,065	81,072,742	75,354,952	73,874,080	76,411,514	79,219,344	82,220,199	
Expense								
Salaries and Wages	22,187,749	26,475,701	29,897,983	30,440,938	31,648,976	32,905,335	34,211,948	
Salaries Temporary	1,304,040	1,733,321	1,734,350	1,734,350	1,734,350	1,734,350	1,734,350	
Salaries Overtime	1,508,502	1,778,883	1,826,000	1,826,000	1,826,000	1,826,000	1,826,000	
Benefits - PERS	7,007,864	8,365,856	9,378,795	9,709,336	9,712,388	9,281,435	9,182,440	
Benefits - Additional UAL	962,291	962,328	-	-	500,000	500,000	500,000	
Benefits - Non PERS	6,683,806	8,194,001	10,281,977	10,590,436	10,908,149	11,235,394	11,572,456	
Benefits - Non PERS (Vacancy)	-	(3,372,208)	(5,159,760)	(4,731,004)	(4,327,641)	(3,867,371)	(3,975,499)	
Operating Expenses	7,039,721	9,145,703	8,661,520	8,921,366	9,189,007	9,464,677	9,748,617	
Services	8,277,179	9,991,178	11,324,679	11,664,419	12,014,352	12,374,783	12,746,026	
Repairs & Maintenance	1,060,987	1,042,796	1,117,395	1,150,917	1,185,444	1,221,008	1,257,638	
Utilities, Rentals	1,758,532	1,877,373	1,966,558	2,025,555	2,086,321	2,148,911	2,213,378	
Fixed Assets, Special Project	606,442	1,576,983	1,609,638	1,657,927	1,707,665	1,758,895	1,811,662	
Transfer Out	12,265,074	8,831,190	3,681,963	1,457,045	1,554,117	1,654,102	1,757,086	
Total expense	70,662,187	76,603,105	76,321,098	76,447,285	79,739,129	82,237,517	84,586,102	
Surplus/(Deficit)	\$ (3,426,122)	\$ 4,469,637	\$ (966,146)	\$ (2,573,205)	\$ (3,327,614)	\$ (3,018,173)	\$ (2,365,902)	
	Audited	Forecast						
Fund Balance (excl 111)	<u>32,882,360</u>	<u>37,351,997</u>	<u>36,385,851</u>	<u>33,812,646</u>	<u>30,485,031</u>	<u>27,466,859</u>	<u>25,100,956</u>	
Reserves Breakdown:								
Non-spendable prepaids	446,047	446,047	446,047	446,047	446,047	446,047	446,047	
Project related, encumb	1,540,643	540,643	540,643	540,643	540,643	540,643	540,643	
Strategic pension funding	3,250,860	2,288,492	2,288,492	2,288,492	1,788,492	1,288,492	788,492	
Utility User Tax Refund	-	-	-	4,564,379	-	-	-	2028
Emergency (Policy: 15-20%)	12,064,534	11,490,466	11,448,165	11,467,093	11,885,869	12,260,628	12,612,915	15%
Economic (Policy: 20-25%)	15,000,000	15,320,621	15,264,220	14,255,992	15,573,980	12,681,049	10,462,859	12%
Unassigned	580,276	7,265,728	6,398,284	250,000	250,000	250,000	250,000	

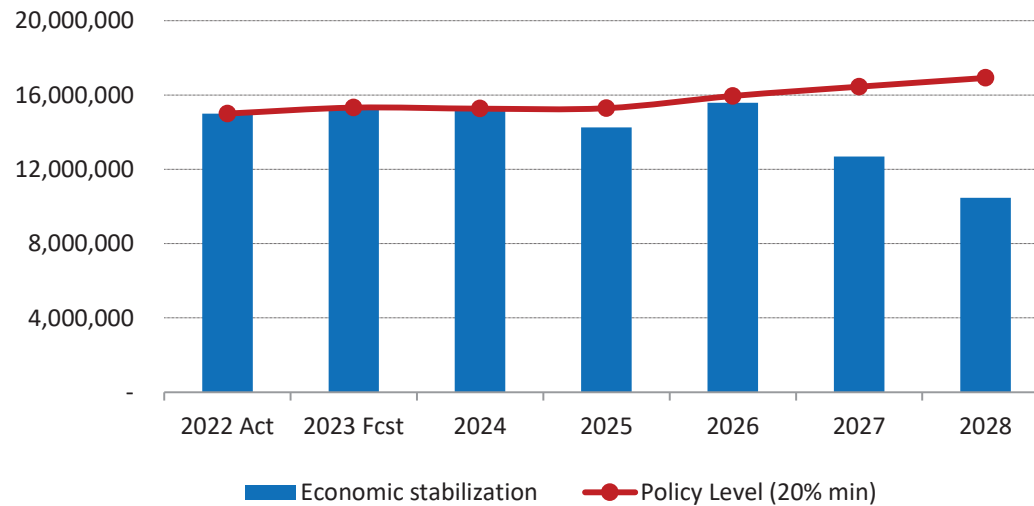
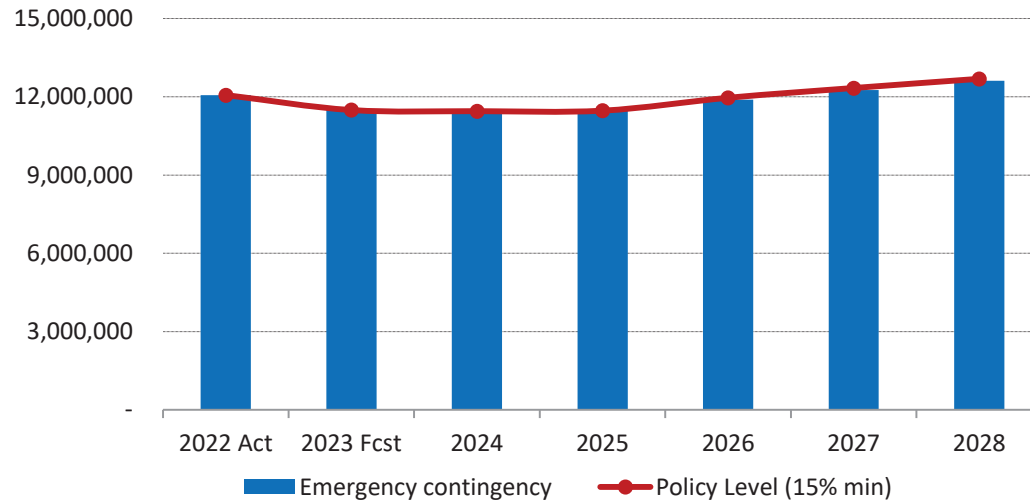
General Fund 5 Year Forecast: Attachment G

General Fund 5 Year Forecast (FY 2023-24 thru 2027-28): Vacancy Rate Analysis

	2024 Bud	2025	2026	2027	2028
Salary	31,723,983	32,266,938	33,474,976	34,731,335	36,037,948
Benefits (excl extra UAL)	19,660,772	20,299,772	20,620,537	20,516,829	20,754,896
Budgeted FTEs	239.97	239.97	239.97	239.97	239.97
Avg FTE	214,130	219,055	225,426	230,229	236,666
Vacancy (\$)	\$5,138,476	\$4,731,004	\$4,327,641	\$3,867,371	\$3,975,499
Vacancy (%)	10.00%	9.0%	8.0%	7.0%	7.0%
Vacant FTEs	24.00	21.60	19.20	16.80	16.80

General Fund 5 Year Forecast: Attachment G

General Fund 5 Year Forecast (FY 2023-24 thru 2027-28): Emergency & Economic Reserves



RESOLUTION NO. XXXX**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
ADOPTING THE BUDGET AND CAPITAL IMPROVEMENT PLAN FOR FISCAL
YEAR 2023–24**

WHEREAS, the City of Menlo Park, acting by and through its City Council, having considered the proposed budget document and related written and oral information at the meeting held June 13, 2023, and the City Council having been fully advised in the matter and good cause appearing therefore.

WHEREAS, City Council Procedure #21-024-CC having been replaced by City Council Policy #CC-21-024 requires City Council action to enter into agreements or settle claims with aggregate annual payments in excess of \$93,000 for fiscal year 2023-24; however, expenditures in debt service on currently-issued debt, utilities, employee benefits, inter-governmental agreements, and operating technological end-user hardware and subscription services included in the Information Technology Internal Service Fund exceed the annual aggregate of \$93,000 through contractual obligations or public health and safety necessity; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Menlo Park that the City Council does hereby:

1. Adopt the budget for the fiscal year 2023–24 as summarized in Attachment O and as modified according to majority City Council direction; and
2. Authorize staff to adjust the city manager’s proposed budget to incorporate changes in assumptions for the proposed budget, to incorporate changes directed by the City Council at budget adoption, true-up of estimated carry-over appropriations, and other minor clerical errors; and
3. Authorize the City Manager or designee to make payments for services provided to the City in the categories of debt service on currently-issued debt, utilities, employee benefits, inter-governmental agreements, and operating technological end-user hardware and subscription services included in the Information Technology Internal Service Fund, in excess of \$93,000 and up to the budgeted amount in fiscal year 2023-24.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the ___ day of June, 2023, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this ___ day of June, 2023.

Judi A. Herren, City Clerk

RESOLUTION NO. XXXX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
ADOPTING AN APPROPRIATIONS LIMIT FOR THE CITY OF MENLO PARK
FOR THE 2023-24 FISCAL YEAR PURSUANT TO ARTICLE XIII B OF THE
CALIFORNIA CONSTITUTION**

WHEREAS, Article XIII B of the California Constitution (Proposition 4) provides for an annual appropriations limit for state and local governments beginning with the 1980-81 fiscal year, based on the 1978-79 appropriations, as adjusted for the changes in the cost of living or per capita personal income, population, and other specified factors; and

WHEREAS, implementing legislation, which became effective January 1, 1981, provides that each year the governing body of each local jurisdiction shall, by resolution, establish its appropriations limit for the year pursuant to Article III B at a regularly scheduled meeting or noticed special meeting; and

WHEREAS, Proposition 111 subsequently amended Article XIII B of the California Constitution to provide for certain revisions in the population and inflation factors used in the calculation of the appropriations limit and to provide for a recalculation of the appropriation limit data for the fiscal years 1987-88 through 1990-91; and

WHEREAS, in accordance with applicable law, the appropriation limit for the City of Menlo Park for the 2023-24 fiscal year has been calculated to be \$78,200,071, using such revisions and recalculations; and

WHEREAS, Government Code section 7910 provides that documentation used in the determination of the appropriations limit shall be available to the public at least 15 days before such meeting, and such documentation was made available to the public on the City's website by June 13, 2023;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Menlo Park that the City Council of Menlo Park hereby:

1. Selects to use the change in the California per capita income as the cost of living adjustment factor, and (b) elects to use the annual population change in the City of Menlo Park's population for calculating the population adjustment factor.
2. That the appropriations limit for fiscal year 2023-24 to be \$78,200,071, as detailed in the calculations set forth in Exhibit A.

//

//

//

//

//

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the __ day of June, 2023, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this __ day of June, 2023.

Judi A. Herren, City Clerk

Exhibits

A. Appropriations limit for fiscal year 2023-24

CITY OF MENLO PARK				
APPROPRIATIONS LIMIT				
FISCAL YEAR 2023-24				
			AMOUNT	SOURCE
A.	LAST YEAR'S LIMIT		\$ 75,563,220	Prior Year
B.	ADJUSTMENT FACTORS			
	1. Population - City		0.9909	State Department of Finance
	2. Inflation		1.0444	State Department of Finance
			1.0349	(B1*B2)
	Total Adjustment %		0.0349	(B1*B2-1)
C.	ANNUAL ADJUSTMENT		\$ 2,636,851	(B*A)
D.	THIS YEAR'S LIMIT		\$ 78,200,071	(A+C)
E.	PROCEEDS OF TAXES SUBJECT TO LIMIT			
	Property Tax		36,687,676	2023-24 Proposed Budget
	Sales Tax		6,886,302	2023-24 Proposed Budget
	Other Taxes		10,500,000	2023-24 Proposed Budget
	Special Assessments		1,255,018	2023-24 Proposed Budget
	Interest Allocation		2,200,000	2023-24 Proposed Budget
			\$ 57,528,996	
F.	AMOUNT UNDER/(OVER) LIMIT		\$ 20,671,075	(D-E)

Dear Fiscal Officer:

Subject: Price Factor and Population Information

Appropriations Limit

California Revenue and Taxation Code section 2227 requires the Department of Finance (Finance) to transmit an estimate of the percentage change in population to local governments. Each local jurisdiction must use their percentage change in population factor for January 1, 2023, in conjunction with a change in the cost of living, or price factor, to calculate their appropriations limit for fiscal year 2023-24. Attachment A provides the change in California's per capita personal income and an example for utilizing the price factor and population percentage change factor to calculate the 2023-24 appropriations limit. Attachment B provides the city and unincorporated county population percentage change. Attachment C provides the population percentage change for counties and their summed incorporated areas. The population percentage change data excludes federal and state institutionalized populations and military populations.

Population Percent Change for Special Districts

Some special districts must establish an annual appropriations limit. California Revenue and Taxation Code section 2228 provides additional information regarding the appropriations limit. Article XIII B, section 9(C) of the California Constitution exempts certain special districts from the appropriations limit calculation mandate. The code section and the California Constitution can be accessed at the following website: <http://leginfo.ca.gov/faces/codes.xhtml>.

Special districts required by law to calculate their appropriations limit must present the calculation as part of their annual audit. Any questions special districts have on this requirement should be directed to their county, district legal counsel, or the law itself. No state agency reviews the local appropriations limits.

Population Certification

The population certification program applies only to cities and counties. California Revenue and Taxation Code section 11005.6 mandates Finance to automatically certify any population estimate that exceeds the current certified population with the State Controller's Office. **Finance will certify the higher estimate to the State Controller by June 1, 2023.**

Please Note: The prior year's city population estimates may be revised. The per capita personal income change is based on historical data.

If you have any questions regarding this data, please contact the Demographic Research Unit at (916) 323-4086.

JOE SPEPHENSHAW
Director
By:

Erika Li
Chief Deputy Director

Attachment

- A. **Price Factor:** Article XIII B specifies that local jurisdictions select their cost of living factor to compute their appropriation limit by a vote of their governing body. The cost of living factor provided here is per capita personal income. If the percentage change in per capita personal income is selected, the percentage change to be used in setting the fiscal year 2023-24 appropriation limit is:

Per Capita Personal Income

Fiscal Year (FY)	Percentage change over prior year
2023-24	4.44

- B. Following is an example using sample population change and the change in California per capita personal income as growth factors in computing a 2023-24 appropriation limit.

2023-24:

Per Capita Cost of Living Change = 4.44 percent
 Population Change = -0.35 percent

Per Capita Cost of Living converted to a ratio: $\frac{4.44 + 100}{100} = 1.0444$

Population converted to a ratio: $\frac{-0.35 + 100}{100} = 0.9965$

Calculation of factor for FY 2023-24: $1.0444 \times 0.9965 = 1.0407$

Fiscal Year 2023-24

Attachment B
Annual Percent Change in Population Minus Exclusions*
January 1, 2022 to January 1, 2023 and Total Population, January 1, 2023

County City	<u>Percent Change</u>	<u>--- Population Minus Exclusions ---</u>		<u>Total Population</u>
	2022-2023	1-1-22	1-1-23	1-1-2023
San Mateo				
Atherton	-0.48	6,710	6,678	6,678
Belmont	-0.88	27,030	26,793	26,793
Brisbane	-0.51	4,672	4,648	4,648
Burlingame	0.22	30,069	30,136	30,136
Colma	-0.88	1,371	1,359	1,359
Daly City	-0.56	102,040	101,471	101,471
East Palo Alto	-0.66	28,776	28,586	28,586
Foster City	-0.45	32,852	32,703	32,703
Half Moon Bay	-0.77	11,313	11,226	11,226
Hillsborough	-0.20	10,984	10,962	10,962
Menlo Park	-0.91	32,645	32,349	32,478
Millbrae	0.08	22,468	22,487	22,487
Pacifica	-0.41	37,236	37,082	37,082
Portola Valley	-0.54	4,270	4,247	4,247
Redwood City	-0.32	81,753	81,495	81,495
San Bruno	-0.68	42,340	42,054	42,054
San Carlos	-0.89	29,762	29,496	29,496
San Mateo	-0.32	103,651	103,318	103,318
South San Francisco	0.00	64,325	64,323	64,323
Woodside	-0.29	5,143	5,128	5,128
Unincorporated	-0.53	61,301	60,974	60,974
County Total	-0.43	740,711	737,515	737,644

*Exclusions include residents on federal military installations and group quarters residents in state mental institutions, state and federal correctional institutions and veteran homes.

RESOLUTION NO. XXXX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
AMENDING THE SALARY SCHEDULE**

WHEREAS, pursuant to the Personnel System Rules, the City Manager prepared a Compensation Plan; and

WHEREAS, the salary schedule is being updated in accordance with the Memorandum of Understanding between the Menlo Park Police Officers' Association and the City of Menlo Park, dated September 1, 2021 through August 31, 2024, which provides a three percent (3%) pay rate increase effective the beginning of the first full pay period following July 1, 2023; and

WHEREAS, the salary schedule is being updated in accordance with the Memorandum of Understanding between the Menlo Park Police Sergeants' Association and the City of Menlo Park, dated July 1, 2022 through June 30, 2025, in order to maintain the current minimum base pay differential of fifteen percent (15%) between top step Police Corporal and top step Sergeant.

NOW, THEREFORE, BE IT RESOLVED that the following compensation provisions shall be established in accordance with the City's Personnel System Rules.

BE IT FURTHER RESOLVED that any previous enacted compensation provisions contained in Resolution No. 6754 and subsequent amendments shall be superseded by this Resolution.

BE IT FURTHER RESOLVED that the changes contained herein on Exhibit A shall be effective July 2, 2023.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the ___ day of June, 2023, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this ___ day of June, 2023.

Judi A. Herren, City Clerk

Exhibits:

- A. Salary schedule effective July 2, 2023
- B. Red-lined version of existing salary schedule

Classification Title	Minimum (Step A)	Step B	Step C	Step D	Maximum (Step E)
Accountant I	\$ 87,734	\$ 92,122	\$ 96,728	\$ 101,565	\$ 106,643
Accountant II	\$ 96,095	\$ 100,637	\$ 105,385	\$ 110,453	\$ 115,717
Accounting Assistant I	\$ 62,216	\$ 65,165	\$ 68,174	\$ 71,359	\$ 74,661
Accounting Assistant II	\$ 68,174	\$ 71,359	\$ 74,661	\$ 78,150	\$ 81,818
Administrative Assistant	\$ 68,379	\$ 71,573	\$ 74,885	\$ 78,385	\$ 82,063
Administrative Services Director	\$ 165,347		Open Range		\$ 234,259
Assistant Administrative Services Director	\$ 130,376		Open Range		\$ 187,407
Assistant City Manager	\$ 174,616		Open Range		\$ 257,685
Assistant Community Development Director	\$ 130,376		Open Range		\$ 187,407
Assistant Engineer	\$ 105,817	\$ 110,859	\$ 116,160	\$ 121,705	\$ 127,503
Assistant Library and Community Services Director	\$ 133,380		Open Range		\$ 187,407
Assistant Planner	\$ 95,875	\$ 100,383	\$ 105,195	\$ 110,208	\$ 115,473
Assistant Public Works Director	\$ 144,870		Open Range		\$ 187,407
Assistant to the City Manager	\$ 125,490		Open Range		\$ 163,981
Assistant to the City Manager / City Clerk	\$ 125,490		Open Range		\$ 163,981
Assistant Transportation Planner	\$ 95,875	\$ 100,383	\$ 105,195	\$ 110,208	\$ 115,473
Associate Civil Engineer	\$ 118,735	\$ 124,419	\$ 130,350	\$ 136,648	\$ 143,267
Associate Engineer	\$ 112,205	\$ 117,576	\$ 123,182	\$ 129,133	\$ 135,388
Associate Planner	\$ 105,195	\$ 110,208	\$ 115,473	\$ 120,998	\$ 126,789
Associate Transportation Engineer	\$ 124,419	\$ 130,350	\$ 136,648	\$ 143,267	\$ 150,209
Associate Transportation Planner	\$ 105,195	\$ 110,208	\$ 115,473	\$ 120,998	\$ 126,789
Asst. Public Works Director - Engineering	\$ 144,870		Open Range		\$ 187,407
Asst. Public Works Director - Maintenance	\$ 144,870		Open Range		\$ 187,407
Asst. Public Works Director - Transportation	\$ 144,870		Open Range		\$ 187,407
Building Custodian	\$ 62,154	\$ 65,100	\$ 68,106	\$ 71,288	\$ 74,587
Building Inspector I	\$ 92,657	\$ 97,113	\$ 101,742	\$ 106,606	\$ 111,696
Building Inspector II	\$ 101,923	\$ 106,824	\$ 111,916	\$ 117,266	\$ 122,866
Business Manager	\$ 105,192	\$ 110,250	\$ 115,505	\$ 121,028	\$ 126,807
Chief Water Operator	\$ 101,983	\$ 106,843	\$ 111,948	\$ 117,304	\$ 122,918
Child Care Teacher I	\$ 55,614	\$ 58,136	\$ 60,769	\$ 63,538	\$ 66,544
Child Care Teacher II	\$ 62,154	\$ 65,100	\$ 68,106	\$ 71,288	\$ 74,587
Child Care Teacher's Aide	\$ 41,726	\$ 43,614	\$ 45,587	\$ 47,629	\$ 49,732
City Arborist	\$ 105,789	\$ 110,860	\$ 116,143	\$ 121,691	\$ 127,514
City Clerk	\$ 125,490		Open Range		\$ 163,981
City Councilmember	n/a		Annual Rate		\$ 7,680
City Manager	\$ 203,533		Open Range		\$ 281,111
Code Enforcement Officer	\$ 87,678	\$ 91,822	\$ 96,153	\$ 100,778	\$ 105,581
Communications and Records Manager	\$ 121,823	\$ 127,735	\$ 133,870	\$ 140,325	\$ 147,074
Communications Dispatcher	\$ 88,905	\$ 93,108	\$ 97,500	\$ 102,189	\$ 107,059
Communications Training Dispatcher	\$ 93,108	\$ 97,500	\$ 102,189	\$ 107,059	\$ 112,178
Community Development Director	\$ 165,126		Open Range		\$ 234,259
Community Development Technician	\$ 74,567	\$ 78,019	\$ 81,665	\$ 85,496	\$ 89,514
Community Service Officer	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,662	\$ 87,678
Construction Inspector I	\$ 87,412	\$ 91,617	\$ 95,983	\$ 100,572	\$ 105,374
Construction Inspector II	\$ 96,153	\$ 100,778	\$ 105,581	\$ 110,629	\$ 115,911
Contracts Specialist	\$ 76,990	\$ 80,610	\$ 84,343	\$ 88,347	\$ 92,587
Custodial Services Supervisor	\$ 71,518	\$ 74,828	\$ 78,324	\$ 82,000	\$ 85,853
Deputy City Clerk	\$ 79,862	\$ 83,662	\$ 87,678	\$ 91,822	\$ 96,153
Deputy City Manager	\$ 169,611		Open Range		\$ 234,259
Deputy Comm. Dev. Director - Housing	\$ 130,350		Open Range		\$ 175,695
Economic Development Manager	\$ 125,490		Open Range		\$ 163,981
Engineering Services Manager	\$ 130,350		Open Range		\$ 175,695
Engineering Technician I	\$ 80,152	\$ 83,864	\$ 87,845	\$ 92,061	\$ 96,413
Engineering Technician II	\$ 89,855	\$ 94,082	\$ 98,506	\$ 103,229	\$ 108,148
Enterprise Applications Administrator	\$ 118,341	\$ 123,962	\$ 129,850	\$ 136,083	\$ 142,657
Enterprise Applications Support Specialist I	\$ 94,840	\$ 99,582	\$ 104,561	\$ 109,789	\$ 115,279
Enterprise Applications Support Specialist II	\$ 105,192	\$ 110,250	\$ 115,505	\$ 121,028	\$ 126,807
Equipment Mechanic	\$ 79,862	\$ 83,662	\$ 87,678	\$ 91,822	\$ 96,153
Executive Assistant	\$ 78,073	\$ 81,736	\$ 85,576	\$ 89,602	\$ 93,816
Executive Assistant to the City Mgr	\$ 83,173	\$ 87,331	\$ 91,698	\$ 96,283	\$ 101,096
Extra Help Retired Annuitant	\$ 31,200		Open Range		\$ 249,600
Facilities Maintenance Technician I	\$ 66,544	\$ 69,608	\$ 72,907	\$ 76,336	\$ 79,871
Facilities Maintenance Technician II	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,662	\$ 87,678
Finance and Budget Manager	\$ 130,350		Open Range		\$ 175,695
Finance Director	\$ 165,125		Open Range		\$ 234,259
GIS Analyst I	\$ 92,043	\$ 96,646	\$ 101,479	\$ 106,553	\$ 111,881
GIS Analyst II	\$ 105,192	\$ 110,250	\$ 115,505	\$ 121,028	\$ 126,807
Gymnastics Instructor	\$ 44,525	\$ 46,539	\$ 48,641	\$ 50,812	\$ 53,148
Housing & Economic Development Manager	\$ 125,490		Open Range		\$ 163,981

Classification Title	Minimum (Step A)	Step B	Step C	Step D	Maximum (Step E)
Housing Manager	\$ 125,490		Open Range		\$ 163,981
Human Resources Director	\$ 165,347		Open Range		\$ 234,259
Human Resources Manager	\$ 130,350		Open Range		\$ 175,695
Human Resources Technician I	\$ 72,243	\$ 75,661	\$ 79,039	\$ 82,895	\$ 86,794
Human Resources Technician II	\$ 79,467	\$ 83,227	\$ 86,943	\$ 91,185	\$ 95,473
Information Technology Manager	\$ 130,350		Open Range		\$ 175,695
Information Technology Specialist I	\$ 77,815	\$ 81,707	\$ 85,792	\$ 90,083	\$ 94,588
Information Technology Specialist II	\$ 86,460	\$ 90,523	\$ 94,781	\$ 99,238	\$ 103,997
Internal Services Manager	\$ 130,350		Open Range		\$ 175,695
Junior Engineer	\$ 85,362	\$ 89,630	\$ 94,112	\$ 98,818	\$ 103,759
Librarian I	\$ 74,587	\$ 78,073	\$ 81,736	\$ 85,576	\$ 89,602
Librarian II	\$ 83,662	\$ 87,678	\$ 91,822	\$ 96,153	\$ 100,778
Library and Community Services Director	\$ 161,038		Open Range		\$ 234,259
Library and Community Services Manager	\$ 130,350		Open Range		\$ 175,695
Library and Community Services Supervisor	\$ 96,464	\$ 101,103	\$ 105,920	\$ 110,985	\$ 116,285
Library Assistant I	\$ 58,136	\$ 60,769	\$ 63,538	\$ 66,544	\$ 69,608
Library Assistant II	\$ 63,538	\$ 66,544	\$ 69,515	\$ 72,907	\$ 76,336
Library Assistant III	\$ 69,515	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,577
Literacy Program Manager	\$ 85,853	\$ 89,891	\$ 94,118	\$ 98,630	\$ 103,330
Maintenance Worker I	\$ 63,538	\$ 66,544	\$ 69,515	\$ 72,907	\$ 76,336
Maintenance Worker II	\$ 69,515	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,662
Management Analyst I	\$ 92,043	\$ 96,646	\$ 101,479	\$ 106,553	\$ 111,881
Management Analyst II	\$ 105,192	\$ 110,250	\$ 115,505	\$ 121,028	\$ 126,807
Network Administrator	\$ 123,426	\$ 129,334	\$ 135,500	\$ 142,046	\$ 148,927
Office Assistant	\$ 57,097	\$ 59,701	\$ 62,403	\$ 65,360	\$ 68,379
Parking Enforcement Officer	\$ 63,538	\$ 66,544	\$ 69,515	\$ 72,907	\$ 76,336
Permit Manager	\$ 119,656	\$ 125,381	\$ 131,382	\$ 137,644	\$ 144,295
Permit Technician	\$ 74,567	\$ 78,018	\$ 81,665	\$ 85,496	\$ 89,513
Plan Check Engineer	\$ 119,866	\$ 125,604	\$ 131,591	\$ 137,949	\$ 144,631
Planning Manager	\$ 130,350		Open Range		\$ 175,695
Planning Technician	\$ 85,496	\$ 89,513	\$ 93,724	\$ 98,131	\$ 102,836
Police Chief	\$ 178,414		Open Range		\$ 257,685
Police Commander	\$ 160,572		Open Range		\$ 234,259
Police Corporal (2080 hours)	\$ 119,178	\$ 125,138	\$ 131,394	\$ 137,964	\$ 144,862
Police Corporal (2184 hours)	\$ 125,137	\$ 131,394	\$ 137,964	\$ 144,862	\$ 152,105
Police Officer (2080 hours)	\$ 110,735	\$ 116,271	\$ 122,084	\$ 128,189	\$ 134,599
Police Officer (2184 hours)	\$ 116,272	\$ 122,085	\$ 128,188	\$ 134,598	\$ 141,329
Police Records Specialist	\$ 69,515	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,662
Police Recruit	n/a		Hourly Rate		\$ 89,695
Police Sergeant (2080 hours)	\$ 137,060	\$ 143,913	\$ 151,108	\$ 158,664	\$ 166,597
Police Sergeant (2184 hours)	\$ 143,912	\$ 151,108	\$ 158,664	\$ 166,597	\$ 174,927
Principal Planner	\$ 127,020	\$ 134,973	\$ 141,433	\$ 148,174	\$ 153,174
Program Aide/Driver	\$ 39,920	\$ 41,726	\$ 43,614	\$ 45,587	\$ 47,629
Program Assistant	\$ 56,871	\$ 59,463	\$ 62,154	\$ 65,100	\$ 68,106
Project Manager	\$ 112,205	\$ 117,576	\$ 123,182	\$ 129,133	\$ 135,388
Property and Court Specialist	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,662	\$ 87,678
Public Engagement Manager	\$ 130,350		Open Range		\$ 175,695
Public Works Director	\$ 169,611		Open Range		\$ 234,259
Public Works Superintendent	\$ 128,081		Open Range		\$ 175,695
Public Works Supervisor - Facilities	\$ 106,541	\$ 111,649	\$ 116,969	\$ 122,558	\$ 128,421
Public Works Supervisor - Fleet	\$ 108,236	\$ 113,425	\$ 118,829	\$ 124,506	\$ 130,463
Public Works Supervisor - Park	\$ 100,707	\$ 105,534	\$ 110,563	\$ 115,845	\$ 121,388
Public Works Supervisor - Streets	\$ 100,707	\$ 105,534	\$ 110,563	\$ 115,845	\$ 121,388
Public Works Supervisor - Trees	\$ 100,707	\$ 105,534	\$ 110,563	\$ 115,845	\$ 121,388
Recreation Coordinator	\$ 74,828	\$ 78,324	\$ 82,000	\$ 85,853	\$ 89,891
Revenue and Claims Manager	\$ 105,192	\$ 110,250	\$ 115,505	\$ 121,028	\$ 126,807
Senior Accountant	\$ 110,509	\$ 115,734	\$ 121,193	\$ 127,022	\$ 133,075
Senior Accounting Assistant	\$ 74,991	\$ 78,495	\$ 82,127	\$ 85,965	\$ 89,999
Senior Building Inspector	\$ 114,394	\$ 119,866	\$ 125,604	\$ 131,591	\$ 137,949
Senior Civil Engineer	\$ 130,770	\$ 137,087	\$ 143,729	\$ 150,693	\$ 158,036
Senior Communications Dispatcher	\$ 97,500	\$ 102,189	\$ 107,059	\$ 112,178	\$ 117,533
Senior Construction Inspector	\$ 105,769	\$ 110,856	\$ 116,139	\$ 121,707	\$ 127,793
Senior Engineering Technician	\$ 96,413	\$ 100,962	\$ 105,817	\$ 110,859	\$ 116,160
Senior Equipment Mechanic	\$ 87,868	\$ 92,155	\$ 96,489	\$ 100,958	\$ 105,749
Senior Facilities Maintenance Technician	\$ 79,862	\$ 83,662	\$ 87,678	\$ 91,822	\$ 96,153
Senior GIS Analyst	\$ 118,340	\$ 123,962	\$ 129,850	\$ 136,083	\$ 142,657
Senior Human Resources Technician	\$ 87,414	\$ 91,550	\$ 95,637	\$ 100,303	\$ 105,021
Senior Library Assistant	\$ 76,467	\$ 80,198	\$ 83,969	\$ 87,858	\$ 91,935

Classification Title	Minimum (Step A)	Step B	Step C	Step D	Maximum (Step E)
Senior Maintenance Worker	\$ 79,862	\$ 83,662	\$ 87,678	\$ 91,822	\$ 96,153
Senior Management Analyst	\$ 118,340	\$ 123,962	\$ 129,850	\$ 136,083	\$ 142,657
Senior Office Assistant	\$ 62,403	\$ 65,360	\$ 68,379	\$ 71,573	\$ 74,885
Senior Planner	\$ 115,473	\$ 120,998	\$ 126,789	\$ 132,833	\$ 139,250
Senior Police Records Specialist	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,662	\$ 87,678
Senior Program Assistant	\$ 69,066	\$ 72,294	\$ 75,687	\$ 79,242	\$ 82,971
Senior Project Manager	\$ 123,426	\$ 129,334	\$ 135,500	\$ 142,046	\$ 148,927
Senior Sustainability Specialist	\$ 86,614	\$ 90,757	\$ 95,101	\$ 99,635	\$ 104,448
Senior Transportation Engineer	\$ 130,770	\$ 137,087	\$ 143,729	\$ 150,693	\$ 158,036
Senior Transportation Planner	\$ 115,473	\$ 120,998	\$ 126,789	\$ 132,833	\$ 139,250
Senior Water System Operator	\$ 81,945	\$ 85,738	\$ 89,745	\$ 93,956	\$ 98,369
Sustainability Manager	\$ 125,490	Open Range			\$ 163,981
Sustainability Specialist	\$ 74,587	\$ 78,073	\$ 81,736	\$ 85,576	\$ 89,602
Systems Administrator	\$ 118,340	\$ 123,962	\$ 129,850	\$ 136,083	\$ 142,657
Transportation Demand Management Coord.	\$ 98,314	\$ 102,997	\$ 107,919	\$ 113,082	\$ 118,494
Transportation Director	\$ 169,611	Open Range			\$ 234,259
Transportation Manager	\$ 130,350	Open Range			\$ 175,695
Water Quality Specialist	\$ 85,576	\$ 89,602	\$ 93,816	\$ 98,314	\$ 102,997
Water System Operator I	\$ 68,090	\$ 71,141	\$ 74,296	\$ 77,967	\$ 81,596
Water System Operator II	\$ 74,495	\$ 77,944	\$ 81,586	\$ 85,414	\$ 89,427

Classification Title	Minimum (Step A)	Step B	Step C	Step D	Maximum (Step E)
Accountant I	\$ 87,734	\$ 92,122	\$ 96,728	\$ 101,565	\$ 106,643
Accountant II	\$ 96,095	\$ 100,637	\$ 105,385	\$ 110,453	\$ 115,717
Accounting Assistant I	\$ 62,216	\$ 65,165	\$ 68,174	\$ 71,359	\$ 74,661
Accounting Assistant II	\$ 68,174	\$ 71,359	\$ 74,661	\$ 78,150	\$ 81,818
Administrative Assistant	\$ 68,379	\$ 71,573	\$ 74,885	\$ 78,385	\$ 82,063
Administrative Services Director	\$ 165,347		Open Range		\$ 234,259
Assistant Administrative Services Director	\$ 130,376		Open Range		\$ 187,407
Assistant City Manager	\$ 174,616		Open Range		\$ 257,685
Assistant Community Development Director	\$ 130,376		Open Range		\$ 187,407
Assistant Engineer	\$ 105,817	\$ 110,859	\$ 116,160	\$ 121,705	\$ 127,503
Assistant Library and Community Services Director	\$ 133,380		Open Range		\$ 187,407
Assistant Planner	\$ 95,875	\$ 100,383	\$ 105,195	\$ 110,208	\$ 115,473
Assistant Public Works Director	\$ 144,870		Open Range		\$ 187,407
Assistant to the City Manager	\$ 125,490		Open Range		\$ 163,981
Assistant to the City Manager / City Clerk	\$ 125,490		Open Range		\$ 163,981
Assistant Transportation Planner	\$ 95,875	\$ 100,383	\$ 105,195	\$ 110,208	\$ 115,473
Associate Civil Engineer	\$ 118,735	\$ 124,419	\$ 130,350	\$ 136,648	\$ 143,267
Associate Engineer	\$ 112,205	\$ 117,576	\$ 123,182	\$ 129,133	\$ 135,388
Associate Planner	\$ 105,195	\$ 110,208	\$ 115,473	\$ 120,998	\$ 126,789
Associate Transportation Engineer	\$ 124,419	\$ 130,350	\$ 136,648	\$ 143,267	\$ 150,209
Associate Transportation Planner	\$ 105,195	\$ 110,208	\$ 115,473	\$ 120,998	\$ 126,789
Asst. Public Works Director - Engineering	\$ 144,870		Open Range		\$ 187,407
Asst. Public Works Director - Maintenance	\$ 144,870		Open Range		\$ 187,407
Asst. Public Works Director - Transportation	\$ 144,870		Open Range		\$ 187,407
Building Custodian	\$ 62,154	\$ 65,100	\$ 68,106	\$ 71,288	\$ 74,587
Building Inspector I	\$ 92,657	\$ 97,113	\$ 101,742	\$ 106,606	\$ 111,696
Building Inspector II	\$ 101,923	\$ 106,824	\$ 111,916	\$ 117,266	\$ 122,866
Business Manager	\$ 105,192	\$ 110,250	\$ 115,505	\$ 121,028	\$ 126,807
Chief Water Operator	\$ 101,983	\$ 106,843	\$ 111,948	\$ 117,304	\$ 122,918
Child Care Teacher I	\$ 55,614	\$ 58,136	\$ 60,769	\$ 63,538	\$ 66,544
Child Care Teacher II	\$ 62,154	\$ 65,100	\$ 68,106	\$ 71,288	\$ 74,587
Child Care Teacher's Aide	\$ 41,726	\$ 43,614	\$ 45,587	\$ 47,629	\$ 49,732
City Arborist	\$ 105,789	\$ 110,860	\$ 116,143	\$ 121,691	\$ 127,514
City Clerk	\$ 125,490		Open Range		\$ 163,981
City Councilmember	n/a		Annual Rate		\$ 7,680
City Manager	\$ 203,533		Open Range		\$ 281,111
Code Enforcement Officer	\$ 87,678	\$ 91,822	\$ 96,153	\$ 100,778	\$ 105,581
Communications and Records Manager	\$ 121,823	\$ 127,735	\$ 133,870	\$ 140,325	\$ 147,074
Communications Dispatcher	\$ 88,905	\$ 93,108	\$ 97,500	\$ 102,189	\$ 107,059
Communications Training Dispatcher	\$ 93,108	\$ 97,500	\$ 102,189	\$ 107,059	\$ 112,178
Community Development Director	\$ 165,126		Open Range		\$ 234,259
Community Development Technician	\$ 74,567	\$ 78,019	\$ 81,665	\$ 85,496	\$ 89,514
Community Service Officer	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,662	\$ 87,678
Construction Inspector I	\$ 87,412	\$ 91,617	\$ 95,983	\$ 100,572	\$ 105,374
Construction Inspector II	\$ 96,153	\$ 100,778	\$ 105,581	\$ 110,629	\$ 115,911
Contracts Specialist	\$ 76,990	\$ 80,610	\$ 84,343	\$ 88,347	\$ 92,587
Custodial Services Supervisor	\$ 71,518	\$ 74,828	\$ 78,324	\$ 82,000	\$ 85,853
Deputy City Clerk	\$ 79,862	\$ 83,662	\$ 87,678	\$ 91,822	\$ 96,153
Deputy City Manager	\$ 169,611		Open Range		\$ 234,259
Deputy Comm. Dev. Director - Housing	\$ 130,350		Open Range		\$ 175,695
Economic Development Manager	\$ 125,490		Open Range		\$ 163,981
Engineering Services Manager	\$ 130,350		Open Range		\$ 175,695
Engineering Technician I	\$ 80,152	\$ 83,864	\$ 87,845	\$ 92,061	\$ 96,413
Engineering Technician II	\$ 89,855	\$ 94,082	\$ 98,506	\$ 103,229	\$ 108,148
Enterprise Applications Administrator	\$ 118,341	\$ 123,962	\$ 129,850	\$ 136,083	\$ 142,657
Enterprise Applications Support Specialist I	\$ 94,840	\$ 99,582	\$ 104,561	\$ 109,789	\$ 115,279
Enterprise Applications Support Specialist II	\$ 105,192	\$ 110,250	\$ 115,505	\$ 121,028	\$ 126,807
Equipment Mechanic	\$ 79,862	\$ 83,662	\$ 87,678	\$ 91,822	\$ 96,153
Executive Assistant	\$ 78,073	\$ 81,736	\$ 85,576	\$ 89,602	\$ 93,816
Executive Assistant to the City Mgr	\$ 83,173	\$ 87,331	\$ 91,698	\$ 96,283	\$ 101,096
Extra Help Retired Annuitant	\$ 31,200		Open Range		\$ 249,600
Facilities Maintenance Technician I	\$ 66,544	\$ 69,608	\$ 72,907	\$ 76,336	\$ 79,871
Facilities Maintenance Technician II	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,662	\$ 87,678
Finance and Budget Manager	\$ 130,350		Open Range		\$ 175,695
Finance Director	\$ 165,125		Open Range		\$ 234,259
GIS Analyst I	\$ 92,043	\$ 96,646	\$ 101,479	\$ 106,553	\$ 111,881
GIS Analyst II	\$ 105,192	\$ 110,250	\$ 115,505	\$ 121,028	\$ 126,807
Gymnastics Instructor	\$ 44,525	\$ 46,539	\$ 48,641	\$ 50,812	\$ 53,148
Housing & Economic Development Manager	\$ 125,490		Open Range		\$ 163,981
Housing Manager	\$ 125,490		Open Range		\$ 163,981
Human Resources Director	\$ 165,347		Open Range		\$ 234,259
Human Resources Manager	\$ 130,350		Open Range		\$ 175,695
Human Resources Technician I	\$ 72,243	\$ 75,661	\$ 79,039	\$ 82,895	\$ 86,794
Human Resources Technician II	\$ 79,467	\$ 83,227	\$ 86,943	\$ 91,185	\$ 95,473
Information Technology Manager	\$ 130,350		Open Range		\$ 175,695
Information Technology Specialist I	\$ 77,815	\$ 81,707	\$ 85,792	\$ 90,083	\$ 94,588
Information Technology Specialist II	\$ 86,460	\$ 90,523	\$ 94,781	\$ 99,238	\$ 103,997
Internal Services Manager	\$ 130,350		Open Range		\$ 175,695
Junior Engineer	\$ 85,362	\$ 89,630	\$ 94,112	\$ 98,818	\$ 103,759
Librarian I	\$ 74,587	\$ 78,073	\$ 81,736	\$ 85,576	\$ 89,602
Librarian II	\$ 83,662	\$ 87,678	\$ 91,822	\$ 96,153	\$ 100,778

Classification Title	Minimum (Step A)	Step B	Step C	Step D	Maximum (Step E)
Library and Community Services Director	\$ 161,038		Open Range		\$ 234,259
Library and Community Services Manager	\$ 130,350		Open Range		\$ 175,695
Library and Community Services Supervisor	\$ 96,464	\$ 101,103	\$ 105,920	\$ 110,985	\$ 116,285
Library Assistant I	\$ 58,136	\$ 60,769	\$ 63,538	\$ 66,544	\$ 69,608
Library Assistant II	\$ 63,538	\$ 66,544	\$ 69,515	\$ 72,907	\$ 76,336
Library Assistant III	\$ 69,515	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,577
Literacy Program Manager	\$ 85,853	\$ 89,891	\$ 94,118	\$ 98,630	\$ 103,330
Maintenance Worker I	\$ 63,538	\$ 66,544	\$ 69,515	\$ 72,907	\$ 76,336
Maintenance Worker II	\$ 69,515	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,662
Management Analyst I	\$ 92,043	\$ 96,646	\$ 101,479	\$ 106,553	\$ 111,881
Management Analyst II	\$ 105,192	\$ 110,250	\$ 115,505	\$ 121,028	\$ 126,807
Network Administrator	\$ 123,426	\$ 129,334	\$ 135,500	\$ 142,046	\$ 148,927
Office Assistant	\$ 57,097	\$ 59,701	\$ 62,403	\$ 65,360	\$ 68,379
Parking Enforcement Officer	\$ 63,538	\$ 66,544	\$ 69,515	\$ 72,907	\$ 76,336
Permit Manager	\$ 119,656	\$ 125,381	\$ 131,382	\$ 137,644	\$ 144,295
Permit Technician	\$ 74,567	\$ 78,018	\$ 81,665	\$ 85,496	\$ 89,513
Plan Check Engineer	\$ 119,866	\$ 125,604	\$ 131,591	\$ 137,949	\$ 144,631
Planning Manager	\$ 130,350		Open Range		\$ 175,695
Planning Technician	\$ 85,496	\$ 89,513	\$ 93,724	\$ 98,131	\$ 102,836
Police Chief	\$ 178,414		Open Range		\$ 257,685
Police Commander	\$ 160,572		Open Range		\$ 234,259
Police Corporal (2080 hours)	\$ 115,707	\$ 121,493	\$ 127,567	\$ 133,945	\$ 140,643
Police Corporal (2080 hours)	\$ 119,178	\$ 125,138	\$ 131,394	\$ 137,964	\$ 144,862
Police Corporal (2184 hours)	\$ 121,492	\$ 127,567	\$ 133,946	\$ 140,643	\$ 147,675
Police Corporal (2184 hours)	\$ 125,137	\$ 131,394	\$ 137,964	\$ 144,862	\$ 152,105
Police Officer (2080 hours)	\$ 107,510	\$ 112,884	\$ 118,528	\$ 124,455	\$ 130,678
Police Officer (2080 hours)	\$ 110,735	\$ 116,271	\$ 122,084	\$ 128,189	\$ 134,599
Police Officer (2184 hours)	\$ 112,885	\$ 118,529	\$ 124,455	\$ 130,678	\$ 137,212
Police Officer (2184 hours)	\$ 116,272	\$ 122,085	\$ 128,188	\$ 134,598	\$ 141,329
Police Records Specialist	\$ 69,515	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,662
Police Recruit	n/a	-	Hourly Rate	-	\$ 87,083
Police Recruit	n/a		Hourly Rate		\$ 89,695
Police Sergeant (2080 hours)	\$ 133,068	\$ 139,721	\$ 146,707	\$ 154,042	\$ 161,744
Police Sergeant (2080 hours)	\$ 137,060	\$ 143,913	\$ 151,108	\$ 158,664	\$ 166,597
Police Sergeant (2184 hours)	\$ 139,721	\$ 146,707	\$ 154,042	\$ 161,744	\$ 169,832
Police Sergeant (2184 hours)	\$ 143,912	\$ 151,108	\$ 158,664	\$ 166,597	\$ 174,927
Principal Planner	\$ 127,020	\$ 134,973	\$ 141,433	\$ 148,174	\$ 153,174
Program Aide/Driver	\$ 39,920	\$ 41,726	\$ 43,614	\$ 45,587	\$ 47,629
Program Assistant	\$ 56,871	\$ 59,463	\$ 62,154	\$ 65,100	\$ 68,106
Project Manager	\$ 112,205	\$ 117,576	\$ 123,182	\$ 129,133	\$ 135,388
Property and Court Specialist	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,662	\$ 87,678
Public Engagement Manager	\$ 130,350		Open Range		\$ 175,695
Public Works Director	\$ 169,611		Open Range		\$ 234,259
Public Works Superintendent	\$ 128,081		Open Range		\$ 175,695
Public Works Supervisor - Facilities	\$ 106,541	\$ 111,649	\$ 116,969	\$ 122,558	\$ 128,421
Public Works Supervisor - Fleet	\$ 108,236	\$ 113,425	\$ 118,829	\$ 124,506	\$ 130,463
Public Works Supervisor - Park	\$ 100,707	\$ 105,534	\$ 110,563	\$ 115,845	\$ 121,388
Public Works Supervisor - Streets	\$ 100,707	\$ 105,534	\$ 110,563	\$ 115,845	\$ 121,388
Public Works Supervisor - Trees	\$ 100,707	\$ 105,534	\$ 110,563	\$ 115,845	\$ 121,388
Recreation Coordinator	\$ 74,828	\$ 78,324	\$ 82,000	\$ 85,853	\$ 89,891
Revenue and Claims Manager	\$ 105,192	\$ 110,250	\$ 115,505	\$ 121,028	\$ 126,807
Senior Accountant	\$ 110,509	\$ 115,734	\$ 121,193	\$ 127,022	\$ 133,075
Senior Accounting Assistant	\$ 74,991	\$ 78,495	\$ 82,127	\$ 85,965	\$ 89,999
Senior Building Inspector	\$ 114,394	\$ 119,866	\$ 125,604	\$ 131,591	\$ 137,949
Senior Civil Engineer	\$ 130,770	\$ 137,087	\$ 143,729	\$ 150,693	\$ 158,036
Senior Communications Dispatcher	\$ 97,500	\$ 102,189	\$ 107,059	\$ 112,178	\$ 117,533
Senior Construction Inspector	\$ 105,769	\$ 110,856	\$ 116,139	\$ 121,707	\$ 127,793
Senior Engineering Technician	\$ 96,413	\$ 100,962	\$ 105,817	\$ 110,859	\$ 116,160
Senior Equipment Mechanic	\$ 87,868	\$ 92,155	\$ 96,489	\$ 100,958	\$ 105,749
Senior Facilities Maintenance Technician	\$ 79,862	\$ 83,662	\$ 87,678	\$ 91,822	\$ 96,153
Senior GIS Analyst	\$ 118,340	\$ 123,962	\$ 129,850	\$ 136,083	\$ 142,657
Senior Human Resources Technician	\$ 87,414	\$ 91,550	\$ 95,637	\$ 100,303	\$ 105,021
Senior Library Assistant	\$ 76,467	\$ 80,198	\$ 83,969	\$ 87,858	\$ 91,935
Senior Maintenance Worker	\$ 79,862	\$ 83,662	\$ 87,678	\$ 91,822	\$ 96,153
Senior Management Analyst	\$ 118,340	\$ 123,962	\$ 129,850	\$ 136,083	\$ 142,657
Senior Office Assistant	\$ 62,403	\$ 65,360	\$ 68,379	\$ 71,573	\$ 74,885
Senior Planner	\$ 115,473	\$ 120,998	\$ 126,789	\$ 132,833	\$ 139,250
Senior Police Records Specialist	\$ 72,907	\$ 76,336	\$ 79,871	\$ 83,662	\$ 87,678
Senior Program Assistant	\$ 69,066	\$ 72,294	\$ 75,687	\$ 79,242	\$ 82,971
Senior Project Manager	\$ 123,426	\$ 129,334	\$ 135,500	\$ 142,046	\$ 148,927
Senior Sustainability Specialist	\$ 86,614	\$ 90,757	\$ 95,101	\$ 99,635	\$ 104,448
Senior Transportation Engineer	\$ 130,770	\$ 137,087	\$ 143,729	\$ 150,693	\$ 158,036
Senior Transportation Planner	\$ 115,473	\$ 120,998	\$ 126,789	\$ 132,833	\$ 139,250
Senior Water System Operator	\$ 81,945	\$ 85,738	\$ 89,745	\$ 93,956	\$ 98,369
Sustainability Manager	\$ 125,490		Open Range		\$ 163,981
Sustainability Specialist	\$ 74,587	\$ 78,073	\$ 81,736	\$ 85,576	\$ 89,602
Systems Administrator	\$ 118,340	\$ 123,962	\$ 129,850	\$ 136,083	\$ 142,657
Transportation Demand Management Coord.	\$ 98,314	\$ 102,997	\$ 107,919	\$ 113,082	\$ 118,494
Transportation Director	\$ 169,611		Open Range		\$ 234,259
Transportation Manager	\$ 130,350		Open Range		\$ 175,695

Classification Title	Minimum (Step A)	Step B	Step C	Step D	Maximum (Step E)
Water Quality Specialist	\$ 85,576	\$ 89,602	\$ 93,816	\$ 98,314	\$ 102,997
Water System Operator I	\$ 68,090	\$ 71,141	\$ 74,296	\$ 77,967	\$ 81,596
Water System Operator II	\$ 74,495	\$ 77,944	\$ 81,586	\$ 85,414	\$ 89,427

RESOLUTION NO. XXXX**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK TO
EXTEND THE SOLID WASTE AND WATER RATE ASSISTANCE PROGRAM**

WHEREAS, as of June 16, 2020, the City Council adopted Resolution No. 6563 to support the black lives matter movement, which emphasizes inclusion and equity within the community through City policies and services; and

WHEREAS, to promote equity and support Menlo Park's diverse community, establishing a rate assistance program helps low-income households to cover basic living expenses; and

WHEREAS, some rate assistance programs, such as Pacific Gas & Electricity (PG&E) California Alternative Rate Energy (CARE) program, offer a monthly minimum discount of 20 percent on gas and electricity; and

WHEREAS, due to the COVID-19 pandemic and solid waste and water rate increases, some residential customers may be financially impacted; and

WHEREAS, on August 25, 2020, during a study session, the City Council supported establishment of a rate assistance program for solid waste rates at a 20 percent discount; and

WHEREAS, on September 8, 2020, during a study session, the City Council supported establishment of a rate assistance program for Menlo Park Municipal Water customers; and

WHEREAS, on December 8, 2020, the City Council adopted Resolution No. 6605, which established the rate assistance program, appropriated \$164,000 from the general fund, and provided a timeframe for the program of January 1, 2021, through June 30, 2021, and

WHEREAS, on January 1, 2021, Recology's new solid waste rates went into effect; and

WHEREAS, on April 27, 2021, the City Council received an update about extending the pilot program for fiscal year 2021-22; and

WHEREAS, on May 11, 2021, the City Council adopted Resolution No. 6625, which approved Menlo Park Municipal Water rate increases for the next five years between July 1, 2021, and June 30, 2026; and

WHEREAS, on June 22, 2021, the City Council adopted Resolution No. 6638, which extended the solid waste and water rate assistance program to June 30, 2022; and

WHEREAS, on July 1, 2021, new Menlo Park Municipal Water rates went into effect; and

WHEREAS, on January 1, 2022, Recology's new solid waste rates went into effect; and

WHEREAS, on June 28, 2022, the City Council adopted Resolution No. 6755, which extended the solid waste and water rate assistance program to June 30, 2023; and

WHEREAS, on July 1, 2022, new Menlo Park Municipal Water rates went into effect; and

WHEREAS, on January 1, 2023, Recology's new solid waste rates went into effect; and

WHEREAS, on July 1, 2023, new Menlo Park Municipal Water rates are scheduled to be in effect; and

NOW, THEREFORE BE IT RESOLVED, the program shall be comprised of the following timeframe, discount, and qualifications unless modified by the City Council by resolution:

1. Timeframe: Continue on July 1, 2023 and end on June 30, 2024;
2. Discount: Monthly 20 percent discount for solid waste rates and a monthly fixed discount equal to 50 percent of the 5/8-inch meter service charge for water rates; and
3. Qualifications: Households must meet the following criteria to receive the discount:
 - Must be enrolled in PG&E CARE program;
 - Submit most recent PG&E bill to verify CARE enrollment. Address on PG&E bill must be the same as the address on solid waste and water bills, but names may be different;
 - Submit most recent Recology and Menlo Park Municipal Water bills to receive applicable discounts; and
 - Re-certify eligibility according to the PG&E CARE program enrollment expiration date. Re-certification will vary, depending on when the household applies to CARE.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the ___ day of June, 2023, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this ___ day of June, 2023.

Judi A. Herren, City Clerk

2023-24 AWARD AUTHORITY AND BID REQUIREMENTS

City Council Policy No. CC-21-024

Adopted December 14, 2021

Resolution No. 6695



Purpose			
Pursuant to City Council adopted policy CC-21-024, this memo establishes the award authority and bid requirements for the 2023-24 fiscal year.			
Award Authority and Bid Requirements			
Category	Amount	Approving authority	Bid requirement
Goods, general services, and professional services	Less than \$46,500	City Manager Designee	Written quotations
	\$46,501 to \$93,000/year (up to 3 years)	City Manager	Informal bid
	\$93,001 to \$200,000	City Council	Informal bid
	Greater than \$200,000		Formal bid
Public projects	Less than \$60,000	City Manager Designee	Informal bid/force account
	\$60,001 to \$93,000	City Manager	
	\$93,001 to \$200,000	City Council	Informal bid
	Greater than \$200,000		Formal bid
Claims settlement	Up to \$93,000	City Manager	N/A
	\$93,001 or greater	City Council	



STAFF REPORT

City Council

Meeting Date:

6/13/2023

Staff Report Number:

23-135-CC

Regular Business:

Adopt a resolution renewing Chapter 2.70 of the Menlo Park Municipal Code entitled military equipment use ordinance, Menlo Park Military Equipment Use Policy, and finding that the 2022 Menlo Park Police Department annual military equipment report complies with the standards of approval set forth in Menlo Park Police Department policy 708.7 and Government Code §7071(d)

Recommendation

Adopt a resolution renewing Chapter 2.70 of the Menlo Park Municipal Code entitled military equipment use ordinance (Attachment A), Menlo Park Military Equipment Use Policy (Attachment B), and finding that the 2022 Menlo Park Police Department annual military equipment report (Attachment D) complies with the standards of approval set forth in Menlo Park Police Department policy 708.7 and Government Code §7071(d).

The Menlo Park Police Department had no incidents during the reporting period where any equipment listed under the Military Equipment Use Policy was used in the field. There is no request to acquire additional equipment, other than the potential need to replenish inventory levels of any consumables (munitions) should they be used in a future incident.

Policy Issues

California Assembly Bill 481 (AB 481 – Codified in Government Code §§7070, et seq.), Menlo Park Municipal Code 2.70, and Menlo Park Police Department Policy 708.7 require the City Council to conduct an annual review of the military equipment use ordinance, Military Equipment Use Policy and annual report and vote on whether to renew the ordinance.

Background

On Sept. 30, 2021, California AB 481 was signed into law. Subsequently, California Government Code §§7070, 7071, and 7072 were adopted to codify the requirements set forth in AB 481 (Attachment C).

AB 481 requires a law enforcement agency to obtain the approval of its governing body, through the adoption of a Military Equipment Use Policy, by ordinance at a regular meeting held pursuant to specified open meeting laws, before taking certain actions relating to the funding, acquisition or use of military equipment, as defined. The bill allows the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards.

Pursuant to AB 481, May 10, 2022, the City Council adopted Ordinance No. 1089, adding Chapter 2.70 to

Menlo Park Municipal Code, which approved a military equipment use policy for police services, and included an inventory of the City's military equipment. AB 481 requires the governing body to annually review the ordinance for consideration to be renewed. If City Council determines, based on an Annual Military Equipment Report prepared by the law enforcement agency that the military equipment does not comply with the above-described standards for approval, it may either disapprove a renewal of the authorization for a type of military equipment or amend the military equipment use policy. The Menlo Park Police Department 2022 annual military equipment report is attached for review (Attachment D).

California Government Code §7070 provides a list of types of equipment that are to be considered "Military Equipment" for purposes of compliance with AB 481 and the Government Code. It is important to note that the Menlo Park Police Department does not possess any tactical equipment that it has obtained from the military, nor does it possess any equipment that was designed uniquely for military use. However, Menlo Park Police Department, like many police agencies nationwide, does possess some types of equipment that are listed in §7070. Additionally, the Menlo Park Police Department participates in a regional Special Weapons and Tactics (SWAT) team, which possesses and utilizes additional types of equipment that qualify as "Military Equipment" according to the Government Code.

It is also important to note that while the equipment listed in Attachments B and D meets the definitions of "Military Equipment" in alignment with this law, this equipment remains the same equipment that has been available to handle high-risk situations that occasionally arise in this jurisdiction up to this point in time, as part of the regular public safety business of this agency. Further, every law enforcement jurisdiction in the state of California is bringing similar lists before their local governing bodies to comply with this law. There is nothing unique in Menlo Park Police Department's compliance effort that is significantly different from any of our partnering police agencies statewide.

Analysis

Discussion of proposed Military Equipment Use Policy

California Government Code §7070(d) defines a Military Equipment Use Policy as:

"Military equipment use policy" means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all of the following:

1. A description of each type of military equipment, the quantity sought its capabilities, expected life span, and product descriptions from the manufacturer of the military equipment.
2. The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.
3. The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
4. The legal and procedural rules that govern each authorized use.
5. The training, including any course required by the commission on peace officer standards and training that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.
6. The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
7. For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the

law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

California Government Code §7071(b) requires that the police department post to its website (Attachment E) the Military Equipment Use Policy that it plans to propose to the City Council at least 30 days before any public hearing concerning the policy. The police department complied with this requirement by posting the policy being proposed tonight (Attachment B), to its public website May 12.

California Government Code §7071(d) stipulates that the City Council shall only approve the Military Equipment Use Policy if it determines all of the following:

1. The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
2. The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights and civil liberties.
3. If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

California Government Code §7070(e) establishes that the police department is responsible for delivering to the City Council an annual military equipment report, which the City Council can utilize to confirm compliance with the Military Equipment Use Policy and the accompanying military equipment use ordinance (Chapter 2.70.050.) This requirement is also reflected in Menlo Park Police Department Policy 708.7.

The Menlo Park Police Department has not obtained any equipment from military surplus programs, known as 1033 Programs, it does not possess any tactical equipment that it has obtained from the military, and it does not possess any equipment that was designed for military use.

That said, California Government Code §7070 provides a list of 16 types of equipment that are to be considered "Military Equipment" for the purpose of compliance with AB 481 and the associated California Government Codes, and the police department does possess and use some of these listed types of equipment. Of the 16 types of equipment specified, the police department possesses only two (2) types – four (4) items total, along with associated munitions. The list of the 16 types of Military Equipment per California Government Code §7070 and the items possessed by the Menlo Park Police Department is included as Attachment D.

In addition to equipment possessed solely by Menlo Park Police Department, the department participates in a regional SWAT team in collaboration with the police departments of Redwood City and Atherton. The regional SWAT Team jointly possesses and utilizes additional types of equipment that qualify as "Military Equipment" according to California Government Code §7070. To be clear, the equipment possessed by SWAT is not purchased, owned, or maintained by the Menlo Park Police Department, but such equipment could be used within the City of Menlo Park if SWAT is deployed, and such equipment is utilized for an appropriate incident. Therefore, in a manner consistent with other municipalities in San Mateo County, the Menlo Park Police Department for the sake of transparency is disclosing in the Menlo Park Police Department Military Use Policy the equipment available to the regional SWAT team in the extraordinarily rare instance of a SWAT operation in this city. It is important to note that SWAT is generally only deployed in extreme circumstances such as active shooter incidents, hostage situations and the execution of high-risk search and arrest warrants. While the equipment SWAT possesses is rarely deployed, it could prove essential to emergency operations when needed.

Items possessed by the regional SWAT Team (members include Menlo Park Police Department along with police departments from Redwood City and Atherton) are included with this report as Attachment F.

- Equipment types that the SWAT Team possesses are noted in **bold type**.
- Equipment listed by legislation but not in possession of SWAT has been ~~stricken through~~.

While nearly all possible rare circumstances requiring an elevated tactical response might be handled using the equipment listed in Attachments B and D detailing the department and SWAT Team's equipment, we must acknowledge that an extraordinary and exigent circumstance could unpredictably arise that might require additional equipment not listed. Should this department encounter a circumstance that requires the exigent acquisition, borrowing, and/or use of equipment not listed, this department will:

1. Provide written notice of that acquisition or use to the City Council within 30 days following the commencement of such exigent circumstance, unless such information is confidential or privileged under local, state or federal law.
2. If it is anticipated that the use will continue beyond the exigent circumstance, submit a proposed amended Military Equipment Use Policy to the City Council within 90 days following the borrowing, acquisition and/or use, and receive approval, as applicable, from the City Council.
3. Include the military equipment in the police department's next annual military equipment report.

The City's Military Equipment Use Policy includes detailed information for each type of Military Equipment listed, as required by California Government Code §7070. This information includes the equipment's capabilities, its purpose/authorized uses, the legal/procedural rules governing its use, and the training required of staff before its use.

Pursuant to California Government Code §7070(d)(7), members of the public may register complaints or concerns or submit questions about the use of each specific type of Military Equipment in this policy by any of the following means:

1. Via email to: policechief@menlopark.gov
2. Via phone call to: 650-330-6300
3. Via mail sent to: Menlo Park Police Department
Attn: Military Equipment Use Coordinator
701 Laurel Street
Menlo Park, CA 94025
4. Via online form at: Attachment G

Staff has drafted the attached Military Equipment Use Policy, as required by law, for City Council to consider renewing by resolution (Attachment A).

Impact on City Resources

There is no impact on City resources.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it proposes an organizational structure change that will not result in any direct or indirect physical change in the environment.

Public Notice

California Government Code §7071(b) requires that the police department post to its website the Military Equipment Use Policy that it plans to propose to the City Council at least 30 days before any public hearing concerning the policy. The police department posted the policy being proposed tonight (included as Attachment B), as well as the annual report (included as Attachment D) to its public website May 12.

Attachments

- A. Resolution
- B. Menlo Park Police Department Lexipol Policy 708 – Military Equipment Use
- C. Text of AB 481
- D. Menlo Park Police Department annual military equipment report
- E. Hyperlink – Military Equipment Use Policy website:
menlopark.gov/Government/Departments/Police/Transparency/Department-policies/Assembly-Bill-481-military-equipment-policy
- F. Regional SWAT equipment list
- G. Hyperlink – Complaint form: menlopark.gov/Government/Departments/Police/Compliments-and-complaints

Report prepared by:
T.J. Moffett, Police Commander

RESOLUTION NO. XXXX**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
PURSUANT TO GOVERNMENT CODE SECTION 7071 RENEWING CHAPTER
2.70 OF THE MENLO PARK MUNICIPAL CODE ENTITLED MILITARY
EQUIPMENT USE ORDINANCE, MENLO PARK MILITARY EQUIPMENT USE
POLICY 707 AND FINDING THAT THE ANNUAL MILITARY EQUIPMENT
REPORT COMPLIES WITH THE STANDARDS OF APPROVAL SET FORTH IN
GOVERNMENT CODE SECTION 7071(d)**

WHEREAS, Government Code Sections 7071 *et. seq.* codifies Assembly Bill 481 (effective January 1, 2022) and requires legislative bodies to adopt ordinances approving military equipment use policies before law enforcement agencies can continue to engage in activities related to the use of military equipment; and

WHEREAS, the Menlo Park Police Department has “military equipment” in its inventory and engages in critical public safety activities in coordination with other jurisdictions on police related matters, including safeguarding the public’s welfare and safety, working on regional task forces, conducting training exercises, providing mutual aid and responding to emergencies; and

WHEREAS, in exigent circumstances, there is sometimes the need to deploy military equipment from or lend military equipment to other local jurisdictions to promote the safety and security of community members; and

WHEREAS, on April 26, 2022, the City Council of the City of Menlo Park adopted Ordinance No. 1089, adding Chapter 2.70 to the Menlo Park Municipal Code, which approved Military Equipment Use Policy 708 for police services, and included an inventory (report) of the City’s military equipment; and

WHEREAS, Menlo Park Military Equipment Use Policy 708 sets forth a military equipment use policy that is consistent with the Police Department’s current practices, complies with all the requirements of the Government Code and the Menlo Park Municipal Code, will continue to ensure ongoing regulation and compliance with the law going forward and will continue to provide a means of community engagement and transparency regarding use of military equipment by the Department; and

WHEREAS, the Government Code and the Menlo Park Municipal Code require the City Council to conduct an annual review of the Military Equipment Use Ordinance and Policy and vote on whether to renew the Ordinance and Policy; and

WHEREAS, the City Council has conducted its annual review of the Military Equipment Use Ordinance contained in Chapter 2.70 of the Menlo Park Municipal Code as well as its annual review of Menlo Park Military Equipment Use Policy 708; and

WHEREAS, the City Council has also conducted its annual review of the military equipment report prepared and submitted pursuant to Section 7072 of the Government Code and has considered the requirements contained in Section 7071(d) of the Government Code;

WHEREAS, public notice has been provided in accordance with applicable law; and

WHEREAS, the City Council has reviewed and desires to renew Chapter 2.70 of the Menlo Park Municipal Code and the Menlo Park Military Equipment Use Policy 708; and

WHEREAS, the City Council desires to find that the annual military equipment report complies with the standards of approval set forth in subdivision (d) of Government Code Section 7071 because of the following:

1. Authorizing the use of military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety. The acquisition and use of this equipment is part of the Menlo Park Police Department's overall approach to Critical Incident Management, Use of Force, De-Escalation and public safety. The equipment will enable department members to properly respond to both planned and unplanned events efficiently and effectively.
2. The Military Equipment Use Policy will safeguard the public's welfare, safety, civil rights, and civil liberties by ensuring required reporting, the opportunity for community engagement and feedback, and transparency and oversight regarding the acquisition and use of specified military equipment in the City of Menlo Park.
3. If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. Prior military equipment use complied with the military equipment use policy that was in effect at the time of the use.

NOW, THEREFORE, THE MENLO PARK CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

Section 1. All of the statements and facts set forth above in the recitals are true and correct and incorporated herein by this reference. The recitals constitute findings in this matter and, together with the staff report, other written reports, public testimony and other information contained in the record, are an adequate and appropriate evidentiary basis for the actions taken in this ordinance.

Section 2. The City Council finds that Chapter 2.70 of the Menlo Park Municipal Code and Menlo Park Military Equipment Use Policy 708 are exempt from the provisions of the California Environmental Quality Act ("CEQA") because they will not result in a direct or reasonably foreseeable indirect physical change in the environment and are not a "project," as defined in Section 15378 of the CEQA Guidelines.

Section 3. The City Council has reviewed Chapter 2.70 of the Menlo Park Municipal Code and hereby renews that Chapter without change.

Section 4. The City Council has reviewed Menlo Park Military Equipment Use Policy 708 and hereby renews the Policy without change.

Section 5. The City Council has reviewed the 2022 annual military equipment report and finds that it complies with the standards of approval set forth in subdivision (d) of Government Code section 7071.

Section 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences,

clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the thirteenth day of June, 2023, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this __ day of __, 2023.

Judi A. Herren, City Clerk

Military Equipment

708.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

The Menlo Park Police Department ("MPPD") does not possess any tactical equipment that it has obtained from the military, nor does it possess any equipment that was designed for military use. MPPD also does not possess any equipment through military surplus programs such as the 1033 Program. Notwithstanding the foregoing, California Government Code § 7071(b) requires that law enforcement agencies submit a proposed Military Equipment Use Policy to their governing board for approval.

California Government Code § 7070 provides a list of equipment types that are considered to be "military equipment" for purposes of this policy requirement, and this Military Equipment Use Policy includes information for any such equipment types that are possessed by the MPPD, or reasonably likely to be deployed in Menlo Park by other law enforcement partners.

708.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

"Department" means the City of Menlo Park Police Department.

"Governing body" means the elected or appointed body that oversees the Department.

"Military equipment" includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.

Menlo Park Police Department

Menlo Park PD Policy Manual

Military Equipment

- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

708.2 POLICY

It is the policy of the Menlo Park Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

708.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police should designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Menlo Park Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 1. Publicizing the details of the meeting.
 2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

Menlo Park Police Department

Menlo Park PD Policy Manual

Military Equipment

708.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Department:

- Attachment 1: qualifying equipment that is owned and/or utilized by the Menlo Park Police Department. [See attachment: ATTACHMENT 1 - MPPD Military Equipment Use Policy - Equipment of MPPD.pdf](#)
- Attachment 2: qualifying equipment that is not owned or regularly utilized by the MPPD, but which is known to be owned and/or utilized by law enforcement agencies which the MPPD collaborates and/ or participates for law enforcement purposes. [See attachment: ATTACHMENT 2 - MPPD Military Equipment Use Policy - Applicable to Regional SWAT.pdf](#)

708.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

708.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

Menlo Park Police Department

Menlo Park PD Policy Manual

Military Equipment

708.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

708.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

Attachments

ATTACHMENT 1 - MPPD Military Equipment Use Policy - Equipment of MPPD.pdf

ATTACHMENT 1
MENLO PARK MILITARY EQUIPMENT USE POLICY
EQUIPMENT OF MENLO PARK PD APPLICABLE TO GOV CODE 7070*

The Menlo Park Police Department has not obtained any equipment from military surplus programs, known as 1033 Programs, it does not possess any tactical equipment that it has obtained from the military, and it does not possess any equipment that was designed for military use.

That said, California Government Code Section 7070 provides a list of sixteen (16) types of equipment that are to be considered "Military Equipment" for the purpose of compliance with AB 481 and the associated California Government Codes, and the Police Department does possess and use some of these listed types of equipment. Of the sixteen (16) types of equipment specified, the Police Department possesses only two (2) types – four (4) items total. The list of the sixteen (16) types of Military Equipment per California Government Code Section 7070 and the items possessed by the Menlo Park Police Department is included as follows:

- Equipment types that the Police Department possesses are noted in **bold type**.
 - Equipment listed by legislation but not in possession of this department has been stricken through.
- ~~1. Unmanned, remotely piloted, powered aerial or ground vehicles.~~
 - ~~2. Mine resistant ambush protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.~~
 - ~~3. High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one half ton trucks, five ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.~~
 - ~~4. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.~~
 - ~~5. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.~~
 - ~~6. Weaponized aircraft, vessels, or vehicles of any kind.~~
 - ~~7. Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.~~
 - ~~8. Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.~~
 - ~~9. Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.~~
 - ~~10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.~~

- a) * While the following equipment is exempt from this reporting process per California Government Code Section 7070(c)(10), we have included it in the interests of transparency. Every Menlo Park Patrol Officer is issued .223 caliber, Colt AR-15/ M4 Carbine rifles. The Patrol Rifles have been standard deployed equipment for our Patrol Personnel since about 2005. They may be deployed in special circumstances, such as when the subject is known to possess or is suspected of possessing a deadly weapon or firearm; the subject is beyond the effective range of issued handguns; the subject is known to wear, or is suspected of wearing, body armor; the subject is barricaded, and perimeter officers are at moderate to long distances from the target; the subject is barricaded behind cover that issued handgun ammunition may not effectively penetrate; a field supervisor or watch commander orders the rifle to be deployed; any other situation in which, based on his/her experience and training, the officer deems the deployment of the Patrol Rifle as necessary. Additionally, the Menlo Park Police Department possesses three .308 caliber semi Semi-Automatic rifles. These rifles are in the inventory for use by our SWAT snipers. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

~~11. Any firearm or firearm accessory that is designed to launch explosive projectiles.~~

12. "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.

- a) **The Police Department possesses two (2) pepper ball launchers. The pepper ball launchers are intended for use as a less lethal use of force option. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**

~~13. Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).~~

14. The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.

- a) **The Police Department possesses two (2) 40mm less lethal projectile launchers. The 40mm Less Lethal Launchers and Kinetic Energy Munitions are intended for use as a less lethal use of force option. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**

~~15. Any other equipment as determined by a governing body or a state agency to require additional oversight.~~

16. Notwithstanding paragraphs (1) through (15), "Military Equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

ATTACHMENT 2 - MPPD Military Equipment Use Policy - Applicable to Regional SWAT.pdf

ATTACHMENT 2
MENLO PARK MILITARY EQUIPMENT USE POLICY
EQUIPMENT OF REGIONAL SWAT APPLICABLE TO GOV CODE 7070

In addition to Department-specific operations, the Menlo Park Police Department participates in a regional Special Weapons and Tactics (SWAT) team, which possesses and utilizes additional types of equipment that qualify as "Military Equipment" according to California Government Code Section 7070. While the equipment possessed by SWAT is not purchased, owned, or maintained by the Police Department, it could be used in the City of Menlo Park if SWAT is deployed, and is therefore included in the proposed Military Equipment Use Policy. It is important to note that SWAT is generally only deployed in extreme circumstances such as active shooter incidents, hostage situations, and the execution of high-risk search and arrest warrants. The equipment SWAT possesses is rarely deployed but could prove essential to emergency operations when needed.

The list of the sixteen (16) types of Military Equipment per California Government Code Section 7070 is included below.

- Equipment types that the SWAT Team possesses are noted in **bold type**.
- Equipment listed by legislation but not in possession of SWAT has been stricken through.

1. **Unmanned, remotely piloted, powered aerial or ground vehicles.**
 - a. **The SWAT Team has access to four (4) Robotex Avatar ground robots. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**
- ~~2. Mine resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.~~
- ~~3. High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.~~
- ~~4. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.~~
5. **Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.**
 - a. **The SWAT Team has access to two (2) command and control vehicles. One is a 2015 Chevy Tahoe and the other is a 2002 Workhorse P42 (Mattman custom built SWAT vehicle). This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**
- ~~6. Weaponized aircraft, vessels, or vehicles of any kind.~~
7. **Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.**
 - a. **The SWAT Team has access to one (1) Remington 870 12 gauge breaching shotgun. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**

- ~~8. Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.~~
- ~~9. Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.~~
- 10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.**
- a. The SWAT Team has access to fifteen (15) Colt M4 fully automatic rifles and twenty-three (23) Heckler & Koch MP5 submachine guns. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**
- ~~11. Any firearm or firearm accessory that is designed to launch explosive projectiles.~~
- 12. "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.**
- a. The SWAT Team has access to sixty-one (91) Defense Technology Flashbangs. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**
- b. The SWAT Team has access to the following chemical agents. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**
- | Item | Quantity | Expiration |
|------------------------------------|----------|------------|
| • Riot Control CS Grenade | 10 | 2026 |
| • Triple Chaser CS Grenade | 5 | 2026 |
| • Spede Heat CS Grenade | 4 | 2026 |
| • Tri Chamber CS Flameless Grenade | 10 | 2026 |
| • 40mm Skat Shell CS | 10 | 2026 |
| • 40mm Muzzle Blast | 10 | 2026 |
| • 40mm Ferret CS Liquid | 10 | 2026 |
- ~~13. Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).~~
- 14. The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.**
- a. The SWAT team has access to thirty-eight (38) Defense Technology 40mm launchers and two (2) Defense Technology 37mm launchers. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**
- ~~15. Any other equipment as determined by a governing body or a state agency to require additional oversight.~~
- ~~16. Notwithstanding paragraphs (1) through (15), "Military Equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.~~

Assembly Bill No. 481

CHAPTER 406

An act to add Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, relating to military equipment.

[Approved by Governor September 30, 2021. Filed with
Secretary of State September 30, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 481, Chiu. Law enforcement and state agencies: military equipment: funding, acquisition, and use.

Existing law designates the Department of General Services as the agency for the State of California responsible for distribution of federal surplus personal property, excepting food commodities, and requires the department to, among other things, do all things necessary to the execution of its powers and duties as the state agency for the distribution of federal personal surplus property, excepting food commodities, in accordance with specified federal law. Existing law, the Federal Surplus Property Acquisition Law of 1945, authorizes a local agency, as defined, to acquire surplus federal property without regard to any law which requires posting of notices or advertising for bids, inviting or receiving bids, or delivery of purchases before payment, or which prevents the local agency from bidding on federal surplus property. Existing federal law authorizes the Department of Defense to transfer surplus personal property, including arms and ammunition, to federal or state agencies for use in law enforcement activities, subject to specified conditions, at no cost to the acquiring agency.

This bill would require a law enforcement agency, defined to include specified entities, to obtain approval of the applicable governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined. The bill would also require similar approval for the continued use of military equipment acquired prior to January 1, 2022. The bill would allow the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards. The bill would require the governing body to annually review the ordinance and to either disapprove a renewal of the authorization for a type, as defined, of military equipment or amend the military equipment use policy if it determines, based on an annual military equipment report prepared by the law enforcement agency, as provided, that the military equipment does not comply with the above-described standards for approval. The bill would specify these provisions do not preclude a county or local municipality from implementing

additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

This bill would also require a state agency, as defined, to create a military equipment use policy before engaging in certain activities, publish the policy on the agency's internet website, and provide a copy of the policy to the Governor or the Governor's designee, as specified. The bill would also require a state agency that seeks to continue use of military equipment acquired prior to January 1, 2022, to create a military equipment use policy.

This bill would also include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

By adding to the duties of local officials with respect to the funding, acquisition, and use of military equipment, this bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The acquisition of military equipment and its deployment in our communities adversely impacts the public's safety and welfare, including increased risk of civilian deaths, significant risks to civil rights, civil liberties, and physical and psychological well-being, and incurment of significant financial costs. Military equipment is more frequently deployed in low-income Black and Brown communities, meaning the risks and impacts of police militarization are experienced most acutely in marginalized communities.

(b) The public has a right to know about any funding, acquisition, or use of military equipment by state or local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment.

(c) Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input.

(d) Legally enforceable safeguards, including transparency, oversight, and accountability measures, must be in place to protect the public’s welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used.

(e) The lack of a public forum to discuss the acquisition of military equipment jeopardizes the relationship police have with the community, which can be undermined when law enforcement is seen as an occupying force rather than a public safety service.

SEC. 2. Chapter 12.8 (commencing with Section 7070) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 12.8. FUNDING, ACQUISITION, AND USE OF MILITARY EQUIPMENT

7070. For purposes of this chapter, the following definitions shall apply:

(a) “Governing body” means the elected body that oversees a law enforcement agency or, if there is no elected body that directly oversees the law enforcement agency, the appointed body that oversees a law enforcement agency. In the case of a law enforcement agency of a county, including a sheriff’s department or a district attorney’s office, “governing body” means the board of supervisors of the county.

(b) “Law enforcement agency” means any of the following:

(1) A police department, including the police department of a transit agency, school district, or any campus of the University of California, the California State University, or California Community Colleges.

(2) A sheriff’s department.

(3) A district attorney’s office.

(4) A county probation department.

(c) “Military equipment” means the following:

(1) Unmanned, remotely piloted, powered aerial or ground vehicles.

(2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.

(3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.

(4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.

(5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.

(6) Weaponized aircraft, vessels, or vehicles of any kind.

(7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters,

or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.

(8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

(9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

(10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.

(11) Any firearm or firearm accessory that is designed to launch explosive projectiles.

(12) “Flashbang” grenades and explosive breaching tools, “tear gas,” and “pepper balls,” excluding standard, service-issued handheld pepper spray.

(13) Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).

(14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.

(15) Any other equipment as determined by a governing body or a state agency to require additional oversight.

(16) Notwithstanding paragraphs (1) through (15), “military equipment” does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

(d) “Military equipment use policy” means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all of the following:

(1) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.

(2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.

(3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.

(4) The legal and procedural rules that govern each authorized use.

(5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public’s welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.

(6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight

authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.

(7) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

(e) “State agency” means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(f) “Type” means each item that shares the same manufacturer model number.

7071. (a) (1) A law enforcement agency shall obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting of the governing body held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable, prior to engaging in any of the following:

(A) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(B) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(C) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(D) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(E) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(F) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.

(G) Acquiring military equipment through any means not provided by this paragraph.

(2) No later than May 1, 2022, a law enforcement agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall commence a governing body approval process in accordance with this section. If the governing body does not approve the continuing use of military equipment, including by adoption pursuant to this subdivision of a military equipment use policy submitted pursuant to subdivision (b), within 180 days of submission of the proposed military equipment use policy to the governing body, the law enforcement agency shall cease its use of

the military equipment until it receives the approval of the governing body in accordance with this section.

(b) In seeking the approval of the governing body pursuant to subdivision (a), a law enforcement agency shall submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

(c) The governing body shall consider a proposed military equipment use policy as an agenda item for an open session of a regular meeting and provide for public comment in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(d) (1) The governing body shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

(A) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(B) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

(C) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

(D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(2) In order to facilitate public participation, any proposed or final military equipment use policy shall be made publicly available on the internet website of the relevant law enforcement agency for as long as the military equipment is available for use.

(e) (1) The governing body shall review any ordinance that it has adopted pursuant to this section approving the funding, acquisition, or use of military equipment at least annually and, subject to paragraph (2), vote on whether to renew the ordinance at a regular meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(2) The governing body shall determine, based on the annual military equipment report submitted pursuant to Section 7072, whether each type of military equipment identified in that report has complied with the standards for approval set forth in subdivision (d). If the governing body determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval set forth in subdivision (d), the governing body shall either disapprove a renewal of the authorization for that type of military equipment or require modifications

to the military equipment use policy in a manner that will resolve the lack of compliance.

(f) Notwithstanding subdivisions (a) to (e), inclusive, if a city contracts with another entity for law enforcement services, the city shall have the authority to adopt a military equipment use policy based on local community needs.

7072. (a) A law enforcement agency that receives approval for a military equipment use policy pursuant to Section 7071 shall submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter for as long as the military equipment is available for use. The law enforcement agency shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

(1) A summary of how the military equipment was used and the purpose of its use.

(2) A summary of any complaints or concerns received concerning the military equipment.

(3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.

(4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.

(5) The quantity possessed for each type of military equipment.

(6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

(b) Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the law enforcement agency shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.

7073. (a) A state agency shall create a military equipment use policy prior to engaging in any of the following:

(1) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(2) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(3) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(4) Collaborating with a law enforcement agency or another state agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(5) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(6) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, or to apply to receive, acquire, use, or collaborate in the use of, military equipment.

(7) Acquiring military equipment through any means not provided by this subdivision.

(b) No later than May 1, 2022, a state agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall create a military equipment use policy.

(c) A state agency that is required to create a military equipment use policy pursuant to this section shall do both of the following within 180 days of completing the policy:

(1) Publish the military equipment use policy on the agency's internet website.

(2) Provide a copy of the military equipment use policy to the Governor or the Governor's designee.

7074. The Legislature finds and declares that ensuring adequate oversight of the acquisition and use of military equipment is a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities and shall supersede any inconsistent provisions in the charter of any city, county, or city and county.

7075. Nothing in this chapter shall preclude a county or local municipality from implementing additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Requiring local agencies to hold public meetings prior to the acquisition of military equipment further exposes that activity to public scrutiny and enhances public access to information concerning the conduct of the people's business.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would

result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

O

2022 Menlo Park Police Department Annual Military Equipment Report - Equipment Owned by the Menlo Park Police Department

	Equipment Category - Listed categories as defined by California Government Code §7070 and MPMC 2.70.020	Description	Summary of how equipment was used and purpose of use	Summary of Complaints Received	Result of any internal audits or violations of military equipment use policy	Acquisition Costs	Annual Costs	Funding source for following calendar year	Quantity Possessed	Intended additions in the next year
1	Unmanned, remotely piloted, powered aerial or ground vehicles.	N/A	N/A	None	Each use of the listed items is assessed and monitored for adherence to policy and training. No violations were identified during the review period.	N/A	N/A	N/A	None	None
2	Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subsection.	N/A	N/A	None		N/A	N/A	N/A	None	None
3	High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half (2 1/2) ton trucks, five (5) ton trucks, or wheeled vehicles that have a breaching or entry	N/A	N/A	None		N/A	N/A	N/A	None	None
4	Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.	N/A	N/A	None		N/A	N/A	N/A	None	None
5	Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.	N/A	N/A	None		N/A	N/A	N/A	None	None
6	Weaponized aircraft, vessels, or vehicles of any kind.	N/A	N/A	None		N/A	N/A	N/A	None	None
7	Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one (1) person, are specifically excluded from this subsection.	N/A	N/A	None		N/A	N/A	N/A	None	None
8	Firearms of 0.50 caliber or greater. However, standard issue shotguns are specifically excluded from this subsection.	N/A	N/A	None		N/A	N/A	N/A	None	None
9	Ammunition of 0.50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subsection.	N/A	N/A	None		N/A	N/A	N/A	None	None
10	Specialized firearms and ammunition of less than 0.50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than 0.50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.	N/A	N/A	None		N/A	N/A	N/A	None	None
11	Any firearm or firearm accessory that is designed to launch explosive projectiles.	N/A	N/A	None		N/A	N/A	N/A	None	None
12	"Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.	Tippman Pepperball Launcher	The purpose of this equipment is to provide a less lethal option for law enforcement use where the employment of lethal force is prohibited or undesirable, and the use of chemical agents provides a safer alternative to gaining compliance where allowed by policy and law.	None		\$1,200	Potential for need for replacement parts due to routine maintenance or wear estimated to be less than \$1,000	Operating Budget	2	Potential to acquire additional rounds to replace any use of existing inventory to maintain a repository of up to approx. 500 rounds
		Live-X Pepperball		None		\$1,550		Operating Budget	250	
13	Taser Shockwave, microwave weapons, water cannons, and the long range acoustic device (LRAD).	N/A	N/A	None		N/A		N/A		None
14	The following projectile launch platforms and their associated munitions: forty (40) millimeter projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.	PENN Arms PLG65 40mm Launcher	The purpose of this equipment is to provide a less lethal option for law enforcement use where the employment of lethal force is prohibited or undesirable, and the use of impact munitionss provides a safer alternative to gaining compliance where allowed by policy and law.	None		\$2,000	Potential for need for replacement parts due to routine maintenance or wear estimated to be less than \$1,000	Operating Budget	2	Potential to acquire additional rounds to replace any use of existing inventory to maintain a repository of 50 rounds
		Defense Technology 40mm Exact Impact Sponge Round		None	\$1,600		Operating Budget	50		
15	Any other equipment as determined by a governing body or a state agency to require additional oversight.	N/A	N/A	None	N/A		N/A	None	None	

**MENLO PARK MILITARY EQUIPMENT USE POLICY
EQUIPMENT OF REGIONAL SWAT APPLICABLE TO GOV CODE 7070**

In addition to Department-specific operations, the Menlo Park Police Department participates in a regional Special Weapons and Tactics (SWAT) team, which possesses and utilizes additional types of equipment that qualify as "Military Equipment" according to California Government Code Section 7070. While the equipment possessed by SWAT is not purchased, owned, or maintained by the Police Department, it could be used in the City of Menlo Park if SWAT is deployed, and is therefore included in the proposed Military Equipment Use Policy. It is important to note that SWAT is generally only deployed in extreme circumstances such as active shooter incidents, hostage situations, and the execution of high-risk search and arrest warrants. The equipment SWAT possesses is rarely deployed but could prove essential to emergency operations when needed.

The list of the sixteen (16) types of Military Equipment per California Government Code Section 7070 is included below.

- Equipment types that the SWAT Team possesses are noted in **bold type**.
- Equipment listed by legislation but not in possession of SWAT has been stricken through.

1. **Unmanned, remotely piloted, powered aerial or ground vehicles.**
 - a. **The SWAT Team has access to four (4) Robotex Avatar ground robots. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**
- ~~2. Mine resistant ambush protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.~~
- ~~3. High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one half ton trucks, five ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.~~
- ~~4. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.~~
5. **Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.**
 - a. **The SWAT Team has access to two (2) command and control vehicles. One is a 2015 Chevy Tahoe and the other is a 2002 Workhorse P42 (Mattman custom built SWAT vehicle). This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**
- ~~6. Weaponized aircraft, vessels, or vehicles of any kind.~~
7. **Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.**
 - a. **The SWAT Team has access to one (1) Remington 870 12 gauge breaching shotgun. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**

- ~~8. Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.~~
- ~~9. Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.~~
- 10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.**
- a. The SWAT Team has access to fifteen (15) Colt M4 fully automatic rifles and twenty-three (23) Heckler & Koch MP5 submachine guns. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**
- ~~11. Any firearm or firearm accessory that is designed to launch explosive projectiles.~~
- 12. "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.**
- a. The SWAT Team has access to sixty-one (91) Defense Technology Flashbangs. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**
- b. The SWAT Team has access to the following chemical agents. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**
- | Item | Quantity | Expiration |
|------------------------------------|----------|------------|
| • Riot Control CS Grenade | 10 | 2026 |
| • Triple Chaser CS Grenade | 5 | 2026 |
| • Spede Heat CS Grenade | 4 | 2026 |
| • Tri Chamber CS Flameless Grenade | 10 | 2026 |
| • 40mm Skat Shell CS | 10 | 2026 |
| • 40mm Muzzle Blast | 10 | 2026 |
| • 40mm Ferret CS Liquid | 10 | 2026 |
- ~~13. Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).~~
- 14. The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.**
- a. The SWAT team has access to thirty-eight (38) Defense Technology 40mm launchers and two (2) Defense Technology 37mm launchers. This equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.**
- ~~15. Any other equipment as determined by a governing body or a state agency to require additional oversight.~~
- 16. Notwithstanding paragraphs (1) through (15), "Military Equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.**



ASSEMBLY BILL 481 COMPLIANCE

T.J. Moffett, Commander, Menlo Park Police Department



AB481: Review and Renew



- On September 30, 2021, California AB 481 was signed into law
- Pursuant to AB481, on May 10, 2022, the City Council adopted Ordinance No. 1089, adding Chapter 2.70 to Menlo Park Municipal Code, which approved a military equipment use policy for police services, and included an inventory of the City’s military equipment
- AB 481 requires the governing body to annually review the ordinance for consideration to be renewed
- Requires the completion of an annual “Military Equipment Report”



AB481: Review and Renew



- California Government Code Section 7070 provides a list of types of equipment that are to be considered “Military Equipment” for purposes of compliance with AB 481 and the Government Code
- MPPD does **NOT** possess any tactical equipment that it has obtained from the military, nor does it possess any equipment that was designed uniquely for military use
- MPPD does have some types of equipment listed in Section 7070 (Staff Report - Attachment “D”)
- Additionally, MPPD participates in a regional Special Weapons and Tactics (SWAT) team, which possesses and utilizes additional types of equipment that qualify as “Military Equipment” according to the Government Code (Staff Report – Attachment “E”)



AB481: Review and Renew



- MPPD had no reportable deployments/uses of the equipment listed in Government Code 7070 in 2022

RECOMMENDATION

- MPPD requests that City Council adopt a resolution to approve the annual MPPD Military Equipment Report and renew City of Menlo Park Military Equipment Use Ordinance and Policy (Staff Report - Attachment "A")



STAFF REPORT

City Council

Meeting Date:

6/13/2023

Staff Report Number:

23-136-CC

Regular Business:

Waive the first reading and introduce an ordinance adding Chapter 1.15 “Administrative Citations” and amending Chapter 8.04 “Nuisances” to add additional “Enumerated” nuisances to subsection 8.04.010

Recommendation

Staff recommends the City Council waive the first reading and introduce an ordinance adding Chapter 1.15 “Administrative Citations.”

Policy Issues

Unabated Menlo Park Municipal Code (MPMC) violations are a drain on personnel and resources and requires resources over and above the level of enforcement services usually provided and constitute a public nuisance. The purpose of this chapter is to provide for an administrative process to aid in enforcing compliance with the applicable laws.

Local law enforcement may generally issue criminal misdemeanor citations for violations of these state or county orders. However, additional enforcement options are currently limited in the city due to the lack of express authority to issue fines by civil administrative citations. These types of citations must be authorized by way of local ordinances, as allowed through state law.

Background

The MPMC is at times violated. These violations may occur for a variety of reasons. When the City becomes aware of violations, and priorities dictate, City staff work to address the violations of laws and standards contained in the MPMC. In many cases simply contacting a responsible party can lead to voluntary compliance and the violation is abated in a reasonably timely manner. However, in other instances, the violations may remain unabated. An administrative citation ordinance will provide additional tools for city enforcement staff to gain compliance for violations. Administrative citations enable the city to impose fines and penalties on persons responsible for those violations. The proposed administrative citation process, and resulting fines, are likely to incentivize greater compliance in a more efficient fashion for all involved. Administrative citations would most typically be utilized to gain compliance for property-related violations, noise ordinance violations, and other code enforcement and nuisance abatement concerns, or force compliance with administrative orders.

Staff fully intends to continue to follow the principle of seeking voluntary compliance with the MPMC and regulations. The accompanying proposed administrative citation ordinance includes a process that is geared to gain voluntary compliance, and where necessary, impose fines and penalties. As part of putting an administrative citation procedure in place, it will also be necessary to adopt a resolution to provide for the fines and penalties.

Analysis

Government Code § 53069.4(a)(1) authorizes cities to levy administrative fines for violations of their municipal code, and provides as follows:

The legislative body of a local agency...may by ordinance make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty. The local agency shall set forth by ordinance the administrative procedures that shall govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties. Where the violation would otherwise be an infraction, the administrative fine or penalty shall not exceed the maximum fine or penalty amounts for infractions set forth in §25132 and subdivision (b) of §36900.

The process for the issuance of administrative citations requires that upon a Code Enforcement Officer discovering a violation they must first issue a notice of violation on the responsible person. The notice of violation is required to describe the violation and how to correct it, and provides the responsible person a reasonable amount of time to comply. That notice is to be delivered to the responsible person in a manner that is reasonably calculated to ensure it is delivered to the responsible person. If the person fails to timely respond and correct the violation, then the Code Enforcement Officer may issue an administrative citation. When issuing the administrative citation, the responsible person is given a date for compliance, when a second citation may then be issued. In order to further compel compliance, each day a violation exists beyond any noticed date of compliance amounts to a separate violation. As such, the amount of the citation can escalate if a responsible person fails to address the violation.

The amounts of fines for violations imposed pursuant to this chapter shall be established by a City Council resolution, including escalating fine amounts for repeat violations within a 12-month period. Government Code §36900(b) provides that, aside from building and safety code violations, the violator may be fined up to \$100 for the first offense, \$200 for the second offense within the same year, and \$500 for each additional offense in the same year. In 2018 the state Legislature enacted Assembly Bill (AB) 2598, which increases the fines for violations of building and safety codes in Government Code § 25132 and 36900 to \$130 for the first violation, \$700 for the second violation within a year, and \$1,300 for the third violation in a year. In addition, the new law authorizes a fine of \$2,500 for additional violations within two years if the property is commercial property, contains a building, and the violation is due to failure by the owner to remove visible refuse or to prohibit unauthorized use of the property. The statutes also require a hardship waiver process for repeat violators who have made a bona fide effort to comply with the first violation and for whom the payment of the additional fines would create an undue financial hardship.

A process for administrative review of the citations must be established by ordinance, and is subject to basic due process requirements. Typically, after receiving an administrative citation, local ordinances provide that the violator has the right to appeal to a hearing officer by filing an appeal within an enumerated number of days. The proposed ordinance suggests any responsible party may request an administrative citation hearing by submitting a completed request for hearing form to the city clerk's office along with the entire amount of the fine (or request for a hardship waiver) within 15 calendar days from the effective date of the citation. If the city clerk's office does not receive the request with the total fine amount or a request for a hardship waiver within the required period, the responsible person shall waive the right to a hearing and the citation shall be deemed final. If the request for a hearing is timely made, after conducting the hearing, the hearing officer shall issue a written decision within 30 days of the conclusion of the hearing either upholding, reducing, conditionally reducing or canceling the fines stated in the citation or any administrative charges imposed. That decision may be reviewed as allowed by state law.

City staff believe the proposed ordinance is drafted in a manner that is fair to all and will provide the City tools many other jurisdictions rely on in compelling compliance with laws.

Additions to enumerated nuisances

As part of the proposed amendments to the Municipal Code proposed, staff recommends the City Council consider adopting additional conditions amounting to public nuisances enumerated in MPMC 8.04.010. City staff could then more easily attempt to address such conditions through the administrative citation process,

The conditions recommended to be added to the code here are related to maintenance of properties and providing stronger authority for enforcing compliance with the municipal code. The following conditions are recommended to be added to the end of MPMC 8.04.010, As such, as detailed in that section, "Each and every one of the following conditions, things, matters and acts is deemed a menace to the public health, safety and welfare and is declared to be a public nuisance and shall be abated as such." Those conditions are summarized as follows:

- Accumulation of vegetation and similar matter visible from streets.
- Accumulation of junk, trash or debris.
- Dilapidated and failing fences.
- Any condition which is declared to be a public nuisance by the municipal code.
- Any violation of the zoning ordinance.

Including these as enumerated nuisances would assist the city in its ability to address typical maintenance issues and other violations of the city's municipal code.

Impact on City Resources

While it is expected that once fully implemented the availability of administrative citations will enhance the city's code enforcement efforts and ultimately reduce costs, initially there will be a need to develop appropriate forms and procedures, which will impact staff. In addition, staff will need to be trained in conducting inspections and issuing the required notices. There will be costs related to mailing of required notices outlined in the ordinance. Those costs are expected to be relatively minor.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§ 15378 and 15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Ordinance

Staff Report #: 23-136-CC

Report prepared by:
Dave Norris, Police Chief

Report reviewed by:
City Attorney, Nira F. Doherty

ORDINANCE NO. XXXX

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
 ADDING CHAPTER 1.15 (ADMINISTRATIVE CITATIONS) TO TITLE 1
 (GENERAL PROVISIONS) THE MENLO PARK MUNICIPAL CODE,
 REGARDING ENFORCEMENT OF VIOLATIONS BY ADMINISTRATIVE
 CITATIONS, AND AMENDING SECTION 8.04.010 TO ADD ADDITIONAL
 ENUMERATED NUISANCE CONDITIONS TO TITLE 8 (PEACE, SAFETY AND
 MORALS)**

WHEREAS, Section VII of Article XI of the California Constitution provides that a city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and,

WHEREAS, California Government Code sections 38771 and 38772, respectively, provide that legislative bodies of cities may declare what constitutes a nuisance and provide for the abatement of any nuisance; and

WHEREAS, the City Council finds that nuisance conditions are offensive and/or annoying to the senses, detrimental to property values and community appearance, an obstruction or interference with the comfortable enjoyment of adjacent properties or premises (both public and private), and/or are hazardous or injurious to the health, safety, and/or welfare of the general public; and,

WHEREAS, it is the City Council's desire to promote and sustain a high quality of life within the City and to protect the health, safety, and welfare of the City's residents, business community, and guests by developing and utilizing regulations that promote the sound maintenance of property and that enhance the appearance, habitability, occupancy, use, and safety of all structures and premises in the City; and,

WHEREAS, the City Council wishes to strengthen the City's ability to compel compliance with the City's municipal code through issuance of administrative citations; and,

NOW THEREFORE, The City Council of the City of Menlo Park does Ordain as follows:

Section 1. The above recitals are adopted and incorporated herein.

Section 2. Chapter 1.15 (Administrative Citations) is added to Title 1 (General Provisions) of the Menlo Park Municipal Code as set forth in Exhibit A, which is incorporated herein by reference.

Section 3. Chapter 8.04 (Nuisances) is amended to add the following subsections to subsection 8.04.010 of the Menlo Park Municipal Code as set forth in Exhibit B, which is incorporated herein by reference.

Section 4: Environmental Review.

This Ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act ("CEQA") Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

Section 5: Effective Date.

This Ordinance shall be in full force and effect thirty (30) days from its passage and adoption.

Section 6: Severability.

The City Council hereby declares every section, paragraph, sentence, cause, and phrase of this ordinance is severable. If any section, paragraph, sentence, clause, or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

Section 6: Certification.

The City Clerk shall cause this ordinance to be posted and/or published in the manner required by law.

INTRODUCED on the thirteenth day of June 2023.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on the __ day of __ 2023, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Jen Wolosin, Mayor

ATTEST:

Judi A. Herren, City Clerk

Chapter 1.15 – Administrative Citations**1.15.010 Title and purpose.**

The City Council finds that there is a need for an alternative method of enforcement for violations of the Menlo Park Municipal Code (MPMC) and other city standards, regulations and policies to protect the public health, safety and welfare of the community. The City Council finds and declares that an appropriate method of enforcement for these violations and to encourage compliance is an administrative citation program. The City Council further finds that continued violations are a drain on personnel and resources, require resources over and above the level of enforcement services usually provided, and constitute a public nuisance. The purpose of this chapter is to provide for an administrative process to aid in enforcing compliance with the applicable laws.

1.15.020 Applicability.

- A. This chapter provides for administrative citations which are in addition to all other legal remedies, including criminal, civil or other legally established procedures, which may be pursued to address violations identified in this chapter.
- B. This chapter applies to the following acts or omissions:
 - 1. All violations of the MPMC;
 - 2. All violations of city standards, regulations and policies;
 - 3. All violations of the uniform, technical or other codes or ordinances adopted or incorporated by reference by the city;
 - 4. All other state laws applicable to and enforced by the City of Menlo Park;
 - 5. Failing to comply with any order or condition issued by a commission, board, hearing officer or city staff authorized to issue orders and conditions, including but not limited to the city's building official, code enforcement official, public works director, planning commission or City Council; and
 - 6. Failing to comply with any condition imposed by any entitlement, permit, contract or environmental document issued or approved by the city.
- C. This chapter establishes the administrative procedures for the imposition, enforcement, collection and administrative review of fines and penalties imposed pursuant to Government Code Section 53069.4.
- D. Use of this chapter shall be at the sole discretion of the city.

1.15.030 Definitions.

For the purposes of this chapter, the following definitions apply:

“Civil fine” is the monetary sanction established by resolution by the City Council that is imposed by the issuance of a citation.

“Days” shall mean calendar days. In the event a specified time period ends on a weekend or city holiday, then the time period shall end on the next business day.

“Director” shall mean any department head in the city, including the following: city manager, assistant city manager, police chief, community development director, public works director, administrative services director, library and community services director, and any of their designated agents or representatives.

“Enforcement officer” shall mean any city employee or agent of the city with the authority to enforce any provision of this chapter.

“Hearing officer” shall mean any person appointed by the city manager to preside over the hearings described in this chapter. The hearing officer can have no pecuniary interest in the outcome of the hearing, or interest in or bias regarding the case. If the appointee is a city employee, the appointee cannot work in the department that is administering the citation, nor can any decision of the hearing officer be made subject to the employee’s performance evaluation in their regular job.

“Responsible person” shall mean the person or persons whom the director or designee determines is responsible for causing or maintaining any violation of this code or other provisions of this chapter, including but not limited to a property owner, tenant, person with legal interest in real property, or person in possession of real property and their employees and agents to whom a citation has been issued. The term “person” means any natural person, firm, association, business, trust, organization, corporation, partnership, company or any other legal entity.

1.15.35 Authority to issue administrative citation.

- A. Authority to Issue Citation. Whenever an enforcement officer charged with the enforcement of this code has determined that a code violation has occurred, the enforcement officer shall have the authority to issue an administrative citation, on a form approved by the city manager, to any responsible person, imposing civil fines for the violations.

1.15.040 Notice of violation; prior written warning

- A. Notice of violation; prior written warning requirement. Prior to the issuance of an Administrative Citation pursuant to this chapter, the responsible person must first be personally served or sent via first class mail a written Notice of Violation, providing a prior written warning notice, and such Notice of Violation shall include the following information:
 - 1. Date and approximate time the violation was observed;
 - 2. Name and address of the responsible person and address or definite description of the location where the violation occurred;
 - 3. Section or sections of the municipal code violated and a short description of the facts that create the violation;
 - 4. Action required to correct the violation and a reasonable period by which such action must be completed to prevent the imposition of an administrative citation.

5. The consequences of failing to correct the violation, including the amount of fines that can be imposed for each violation; that each day a violation exists can be considered a separate violation; and that unpaid fines are subject to administrative late fees and interest charges.
- B. Service of notice of violation. Service of the notice of violation will be deemed complete if personally served on the responsible party or mailed to the responsible person's address shown on the last San Mateo County equalized property tax assessment rolls or to any other address known for the responsible person. The notice shall become effective on the date of personal service or the date of first class mailing. The failure of a responsible person to receive the notice shall not invalidate any proceeding taken pursuant to this chapter if service was given in the manner set forth in this section.
- C. Citations for acts committed outside of an enforcement officer's presence. An officer may issue a citation for a violation not committed in the officer's presence if the officer has determined through investigation that the responsible person did commit or is otherwise responsible for the violation.
- D. Continuing nature of violations. Each municipal code section violated is a separate offense with an independent fine. Each day a prohibited condition, use or activity under the code exists which is a violation is a separate and distinct offense. A single citation may charge multiple violations covered by this chapter.

1.15.050 Timing of issuance of citation; contents of citation.

- A. Once the period for compliance in the Notice of Violation has passed and the enforcement officer determined that there continues to be a violation, the enforcement officer may issue an administrative citation.
- B. Each citation shall include all of the following information:
 1. Date and, if applicable, approximate time the violation was observed;
 2. Name and address of the responsible person in violation and address or definite description of the location where the violation occurred;
 3. Section or sections of the municipal code violated and a short description of the facts that create the violation;
 4. Action required to correct the violation and the date by which such action must be completed to prevent the imposition of the next administrative fine;
 5. Amount of the fine for each violation and procedure to pay the fine;
 6. Consequences of failing to correct the violation, including any late fees and interest charges that will accrue if not timely paid, and which shall constitute a civil debt;
 7. A description of the administrative citation appeal process and the manner by which a hearing on a citation may be obtained (including the form to be used, where it may be procured from, and the period in which a request must be made in order to be timely);

8. Description of the procedure, including the time within which to make a request for a hardship waiver of the advance fine deposit when requesting an appeal hearing; and
9. The name and signature of the officer, and the signature of the responsible person, if they are physically present and will sign the citation at the time of its issuance. The refusal of a responsible person to sign a citation shall not affect its validity or any related subsequent proceeding, nor shall signing a citation constitute an admission that a person has committed a violation of the code.

1.15.060 Service of citation.

An administrative citation shall be served in one of the following methods:

- A. An enforcement officer may personally serve the citation on the responsible person. The citation shall become effective on the date of personal service.
- B. An enforcement officer may mail the citation by first class mail and certified mail, return receipt requested, to the responsible person. The citation shall be mailed to the responsible person's address shown on the last San Mateo County equalized property tax assessment rolls or to any other address known for the responsible person. The citation shall become effective on the date of the first class mailing. The failure to serve any responsible person shall not invalidate any proceeding taken pursuant to this chapter.
- C. An enforcement officer shall post the citation on the property where the violation occurs in a conspicuous place when the responsible person resides at an unknown address. A copy of the citation shall also be mailed by first class mail to the responsible person at the property where the violation occurs. The citation shall become effective on the date of the first class mailing.
- D. Failure of a responsible person to receive a citation or notice shall not invalidate any fine, late charge, action or proceeding that is imposed or brought pursuant to this chapter, if service was given in a manner stated in this section.

1.15.070 Failure to comply with final order to correct violation.

Failure of a responsible person to comply with a corrective action stated in any uncontested citation, or with regard to a correction order in any hearing officer decision that is deemed confirmed and not appealed to the superior court, shall constitute a new and separate violation and/or misdemeanor offense for each day that the violation continues and/or exists.

1.15.080 Amount of fines.

- A. The amounts of fines for violations imposed pursuant to this chapter shall be established by resolution by the City Council, including escalating fine amounts for repeat violations within a 12-month period. The director of the department issuing the citation shall have the discretion to reduce the total fine amounts when there are multiple violations, keeping in mind the ultimate goal is abatement of the violations. In no case can the fines for each violation exceed the amounts established by City Council resolution, which shall be in conformance with state law.

- B. An administrative late fee charge established by City Council resolution shall be owed for fines not paid within 30 days of their due date.
- C. The City Council may, by resolution, also establish and impose a daily interest charge on fines that are not fully paid to the city within 45 calendar days of their issuance when they are not contested, or within 45 calendar days of their nonpayment following the decision of a hearing officer or judicial officer to uphold or confirm the fine. Interest shall not be imposed on a late charge and shall not exceed the maximum rate allowed by law. The rate of interest and the commencement of its accrual may be modified by resolution of the City Council.

1.15.090 Payment of fines.

- A. The fine shall be paid to the city administrative services department within 15 calendar days from the effective date of the citation.
- B. Any administrative citation and/or administrative charge paid shall be refunded if it is determined after a hearing that the person issued the administrative citation was not the responsible person or that there was no violation as identified in the administrative citation.
- C. Payment of a fine shall not excuse the responsible person from correcting the violation. The issuance of a citation and/or payment of a fine does not bar the city from taking any other enforcement action regarding a violation that is not corrected, including issuing additional administrative citations, taking city abatement action, and/or filing civil and/or criminal complaints.

1.15.100 Administrative citation hearing request.

- A. Any responsible person receiving an administrative citation may contest that there was a violation pursuant to this chapter or that they are the responsible person and may request an appeal hearing as follows:
 - 1. A request for hearing form shall be obtained from the city clerk, and shall be completed and returned to the city clerk's office along with the entire amount of the fine (or request for a hardship waiver pursuant to 1.15.100) within 15 calendar days from the effective date of the citation. If the office of the city clerk does not receive the request with the total fine amount or a request for a hardship waiver within the required period, the responsible person shall have waived the right to a hearing and the citation shall be deemed final.
 - 2. A request for hearing shall require that the person contesting the citation provide a brief statement outlining the responsible person's basis for contesting the citation and an address at which notice of any additional proceeding, correspondence or the decision of the hearing officer may be received.
 - 3. Only after a completed request for hearing form has been filed with the city clerk, and the responsible person has submitted the advance fine deposit or the city has granted a hardship waiver, whichever occurs first, shall the city set the date, time and place for the hearing. The hearing shall be set for a date not less than 15 days nor more than 60 days after the city clerk received the request and either the person contesting the citations has submitted the advance fine deposit or the city has granted a hardship waiver. The

person contesting the citation and the city may mutually agree in writing to hold the hearing at a later date.

4. The responsible person requesting the hearing shall be notified by first class mail of the time and place set for the hearing at least 10 days prior to the date of the hearing. The notice shall be sent to the address provided on the request for hearing form filed by the responsible person. Service shall become effective on the date of first class mailing. Failure of the responsible person requesting the hearing to receive such notice shall not affect the validity of any proceedings taken.
 5. The responsible person or the city may request one continuance, but in no event may the hearing be continued more than 30 days after the date of the originally scheduled hearing unless the hearing officer finds circumstances warrant a longer continuance not to exceed 90 days after the date of the originally scheduled hearing. However, the person contesting the citation and the city may mutually agree in writing to hold the hearing at a later date.
- B. A timely request for a hearing shall not excuse a responsible person from the duty to immediately abate a violation of the code, nor from any other responsibility or legal consequences for a continuation or repeated occurrence(s) of a violation of the code.
- C. The failure of any responsible person to file a request for hearing in accordance with the provisions of this section shall be deemed to be a waiver of their right to an administrative hearing and the citation will be deemed final.

1.15.110 Advance fine deposit hardship waiver.

Any responsible person who requests a hearing to contest an administrative citation and is financially unable to deposit the fine as required in MPMC 1.15.090 may file a request for hardship waiver as follows:

- A. The request for waiver shall be made on a form obtained from the city clerk and shall be submitted to the city clerk along with all supporting documentation within 15 days of the effective date of the citation.
- B. The requirement of depositing the full amount of the fine as required by MPMC 1.15.090 shall be stayed unless or until the city makes a determination not to issue the hardship waiver.
- C. To be considered for a hardship waiver, the application must be complete and signed and must be accompanied by documents that enable the city manager or designee to reasonably determine the responsible person's financial inability to pay the full amount of the fines in advance of the hearing. The owner may be granted a reasonable extension to supply supporting documentation by the city manager or designee. Documents suitable for consideration may include, without limitation, accurate, complete and legible copies of state and federal income tax returns, and all schedules for the preceding tax year, financial statements, loan applications, bank account records, income and expense records for the 12 months preceding submittal of the waiver form, as well as other documentation demonstrating the responsible person's financial hardship. The city may, at a time chosen in its sole discretion and after a citation is final or confirmed, destroy or discard the documents submitted for a hardship waiver without prior notice to the responsible person.

- D. The city manager or designee shall issue a written decision specifying the reasons for granting or denying the hardship waiver. The written determination of the city manager or designee shall be final and shall be served by first class mail upon the responsible person who applied for the hardship waiver. The decision regarding the request for a hardship waiver shall become effective on the date of the mailing.
- E. Approval of the hardship waiver will result in the city setting a hearing pursuant to this chapter.
- F. If the city manager or designee denies the request for a hardship waiver, the responsible person shall remit the advance fine deposit within 10 days of the decision to deny the hardship waiver. If the advance fine deposit is not received by the city clerk by this date, the request for hearing shall not be accepted and the responsible person shall be deemed to have waived their right to an administrative hearing and the citation shall be deemed final.

1.15.120 Administrative hearing procedures.

- A. No hearing to contest an administrative citation before a hearing officer shall be held unless the fine has been deposited in advance in accordance with MPMC 1.15.090 or an advance fine deposit hardship waiver has been issued in accordance with MPMC 1.15.100.
- B. At least 10 days prior to the Administrative Hearing, the City shall serve evidence supporting the issuance of the Administrative Citation intended to be presented at the hearing on the responsible person at the address provided on the request for hearing form. Such information may include information to establish the notice of violation provided and that the violation existed as described in the citation.
- C. At least five days prior to the Administrative Hearing, the responsible person shall provide supporting documentation intended to be presented at the hearing to the city clerk. Such supporting documentation may include evidence showing that the person is not the responsible person or that the violations did not exist as of the date of the issuance of the administrative citation.
- D. Administrative hearings are informal, and formal rules of evidence and discovery do not apply.
- E. Burden of proof. The city bears the burden of proof to establish a violation and who is responsible by a preponderance of the evidence. A validly issued administrative citation with supporting evidence showing that the violation existed as described in the citation shall constitute prima facie evidence of the existence of the violation.
- F. The city and the responsible person contesting the administrative citation shall be given the opportunity to testify and present evidence concerning the administrative citation. The responsible person may represent themselves or be represented by any person of their choice. Either party may bring witnesses who may provide testimony, based on their personal knowledge, in regards to matters related to the existence of a violation. The hearing officer may limit such testimony, in their sole discretion, as they deem appropriate.
- G. The hearing officer may continue the hearing and request additional information from the enforcement officer and/or the responsible person or to conduct an inspection of the building

and/or property involved in the hearing prior to concluding the hearing and issuing a written decision.

- H. If desired, an inspection of the building and/or property by the hearing officer during the hearing may occur if the responsible person consents to the inspection, is given notice of the date and time of the inspection, and both parties are permitted to be present during the inspection. If the building, structure and/or property can be inspected from areas in which the general public has access, or with permission of other persons authorized to provide access to the building and/or property, then notice to and consent of the responsible person are not required. The hearing officer shall state for the record during the hearing the material facts observed and conclusions drawn from the inspection and the responsible person and enforcement officer shall be afforded an opportunity to rebut or explain the matters so stated by the hearing officer.
- I. The failure of the responsible person to appear at the administrative citation hearing shall constitute a forfeiture of the fine and shall be deemed a waiver of their right to an administrative hearing.

1.15.130 Decision of the hearing officer.

- A. The hearing officer shall issue a written decision within 30 days of the conclusion of the hearing either upholding, reducing, conditionally reducing or canceling the fines stated in the citation or any administrative charges imposed. The decision shall state the reasons for that decision pursuant to MPMC 1.15.130. Pursuant to Government Code 53069.4(b), each decision shall contain a statement advising the responsible person of the right to judicial review of the decision and the court filing fee as set forth in Government Code Section 70615. The hearing officer's decision is final.
- B. If the hearing officer determines that the administrative citation should be upheld, then the advance fine deposit shall be retained by the city. If a hardship waiver was issued, the written decision shall require the fine to be paid within 30 days of the date of service of the decision. If the fine is not paid within the time specified, the fine shall be subject to the imposition of an administrative late fee charge and interest as set forth in MPMC 1.15.070.
- C. If the hearing officer determines the administrative citation should be canceled and the advance fine was deposited with the city, then the city shall refund the amount of the deposited fine. If the fine is reduced by the hearing officer, the city shall make a partial refund of the advance fine deposit. The city shall issue any refund required within 30 days.
- D. The decision should indicate that the hearing officer's decision is the final decision for the city and that the responsible party has 20 days from the effective date of the decision to file a petition for judicial appeal as set forth in MPMC 1.15.130.
- E. The responsible person shall be served with a copy of the hearing officer's written decision by first class and by certified mail, return receipt requested, to the address provided on the request for hearing form by the responsible person requesting the hearing. The date the decision is deposited with the U.S. Postal Service shall constitute the date of its service. The failure of a responsible person to receive a properly addressed decision shall not invalidate any hearing, city action or proceeding conducted pursuant to this chapter.

1.15.140 Recovery of fines and administrative charges.

Any unpaid civil fines, administrative charges and accrued interest shall constitute a civil debt owing to the city jointly and severally by the owner and/or responsible parties. At its discretion, the city may pursue any and all legal and equitable remedies for the recovery of all fines, administrative charges and interest owed to the city. Any property owner or responsible party who fails to pay the fines, administrative charges, or interest owed to the city may be liable in any action brought by the city for costs incurred in securing payment of the delinquent amounts to the extent allowed by law. Pursuit of one remedy does not preclude the pursuit of any other remedies until the total of all fines, administrative charges and interest has been recovered.

1.15.150 Allocation of recovered fines and administrative charges.

Fines and administrative charges collected pursuant to this chapter shall be deposited in the city's general fund to offset city enforcement costs.

To be added to the end of 8.04.010 Enumerated:

(23) The exterior accumulation of vegetation, weeds, dirt, litter, rubbish or debris on the property which is visible from a public street, sidewalk, alleyway, right-of-way or neighboring property. This includes, but is not limited to:

1. Neglected or improperly maintained landscaping, dead, debris-laden, weed-infested or overgrown vegetation, such as trees, shrubs, hedges, grass and ground covers, or vegetation dying as a result of physical damage, disease, insect infestation or lack of water or any other vegetation;
2. Vegetation likely to harbor rats, vermin and other nuisances or causing detriment to neighboring properties, or out of conformity with neighboring community standards to such an extent as to result in appreciable diminution of property values;
3. Vegetation growing on the roof or compromising the integrity of any structure, except for rooftop gardens designed and constructed to withstand structural load;
4. The removal or failure to maintain in good condition any landscaping required as a condition of any permit or development approval or included in the project plans or application without city approval. "Good condition" means that plant material is alive, irrigated, and otherwise cared for to ensure survival.

The provision as to dead or dying vegetation due to lack of water shall not be enforced during a drought year, as determined by the city. For purposes of this subsection, a lawn area shall be deemed overgrown if 50% or more of its area exceeds 4 inches in height (not including decorative grasses).

(24) The accumulation or storage of junk, trash or debris, including but not limited to tires, broken, abandoned or discarded furniture, sinks, toilets, cabinets or other household fixtures, equipment or parts thereof, rubbish, garbage, goods and furnishings, shopping carts, packing boxes, lumber, salvage materials or other materials, accumulations of grease, oil or petroleum-based products of any kind, animal feces, or other debris and litter, which constitutes a fire hazard or safety hazard and/or is stored or accumulated in such a manner as to constitute visual blight which is visible from the public street, sidewalk or right-of-way, alley or adjoining property. This includes the dumping, spillage or storage of solids or liquids which may negatively impact the visual or olfactory nature of the area.

(25) Any fence which is in a condition of dilapidation or disrepair, including, but not limited to, fences with broken slats and sharp edges, or which severely lean or list more than 15 degrees from perpendicular or are in danger of collapse due to the elements, pest infestation, dry rot or other damage.

(26) The existence of any property condition which is unlawful or declared to be a public nuisance pursuant to any other provision in this code. This subsection shall be construed to place an affirmative duty on property owners and occupants to maintain their property in conformity with all applicable codes. The city shall have the power to require property owners and occupants to bring their property into compliance with applicable codes, regardless of whether the building is occupied.

(27) Any violation of the Menlo Park zoning ordinance or any state or county law violation enforced by the city.



ADMINISTRATIVE CITATION ORDINANCE



RECOMMENDATION:

- Waive first reading and introduce Ordinance
 - Adds Chapter 1.15 Administrative Citations
 - Amends Chapter 8.04 “Nuisances”
 - 8.04.010 Additional “Enumerated Nuisances”:
 - Accumulation of vegetation and similar matter visible from streets.
 - Accumulation of junk, trash or debris.
 - Dilapidated and failing fences.
 - Any condition which is declared to be a public nuisance by the municipal code.
 - Any violation of the zoning ordinance.

IMPORTANT

Nothing changes our priority of a community policing approach and working towards voluntary compliance in every case.



STAFF REPORT

City Council

Meeting Date:

6/13/2023

Staff Report Number:

23-134-CC

Regular Business:

Waive the first reading and introduce an ordinance adding Menlo Park Municipal Code Chapter 8.05 to require the use of zero emission landscaping equipment (ZELE)

Recommendation

1. Staff recommends the City Council waive the first reading and introduce an ordinance adding Menlo Park Municipal Code Chapter 8.05 (gasoline powered landscape equipment) to require use of zero emission landscaping equipment (ZELE) by a certain date and repeal Chapter 8.07 (leaf blowers) and subsection (C) of §8.06.040 exceptions for gas powered leaf blowers (Attachment A).
2. Staff also seeks direction on the development of an electric landscaping equipment rebate program.

Policy Issues

Menlo Park currently regulates gas-powered gardening equipment through the City's noise ordinance (Chapter 8.06) and a leaf blower ordinance (Chapter 8.07.) Beginning Jan. 1, 2024, gas powered gardening equipment will no longer be sold in California. Menlo Park also has a 2030 Climate Action Plan with a goal to be carbon neutral by 2030. Gas-powered landscaping equipment uses fossil fuels that contribute to climate change and negatively impacts air quality endangering the health of the community and its workers.

Background

For many years community members have been expressing concerns about the negative noise, health and air quality impacts from gas powered leaf blowers. In September 2021, the Environmental Quality Commission (EQC) advised the City Council to prohibit the use of gas powered leaf blowers, and as a result the City Council directed staff to develop a policy.

A proposed policy was presented at a City Council study session Oct. 18, 2022 with recommended rules to prohibit the use of five types of gas powered gardening equipment (leaf blowers, string trimmers, lawnmowers, hedge trimmers and chain saws) due to their negative impacts on the environment and human health by a certain date. City Council directed staff to continue outreach and education with gardeners and landscapers about the proposed rules, and prepare a draft ordinance for final adoption by the City Council in 2023.

The EQC discussed the final proposed rules at their April 2023 meeting. The EQC advises the City Council to adopt the proposed rules and consider a local incentive program to purchase electric landscaping equipment provided that implementation of the rules and incentive program does not limit the City's ability to make progress on the Climate Action Plan particularly for existing building electrification requirements.

Current rules regarding gardening equipment

Menlo Park currently regulates gardening equipment through its noise ordinance (Chapter 8.06) by limiting

its use to specific hours of the day, and limits generating noise above 85 decibels. Gas-powered leaf blowers have further restrictions detailed in Chapter 8.07 of the Menlo Park Municipal Code. Gas-powered leaf blowers also only operate during specific hours, but unlike other landscaping equipment, cannot exceed 65 decibels, and must be certified per American National Standards Institute.

Enforcing these rules have proven challenging as it is difficult to respond to nonemergency complaints in a timely manner. Often staff arrive when the equipment is no longer in use. In addition, accurately measuring or verifying the decibels is problematic.

Analysis

If adopted by the City Council, the proposed rules would apply to all properties within the City of Menlo Park's jurisdiction:

1. Starting July 1, 2024, gas powered leaf blowers and string trimmers (commonly referred to as weed whackers) would be prohibited. Gardeners, residents and businesses could use electric, battery, or manually operated equipment.

This timeline allows the community and commercial gardeners to transition with adequate notice. It also aligns with neighboring communities like the Town of Atherton that approved in March to prohibit gas powered leaf blowers starting on July 1, 2024. The City of Palo Alto has prohibited gas powered leaf blowers since 2000. Twelve gardeners responded to the City's most recent online survey, and the majority indicated that they supported starting enforcement July 2024. Community members that responded to the survey also agreed with July 2024 with a majority wanting enforcement to begin much sooner.

2. Starting Jan. 1, 2029, gas powered lawnmowers, hedge trimmers and chainsaws would be prohibited.

At the October 2022 study session, the City Council requested staff review moving up the enforcement date for this equipment. Gardener results from the online survey were mixed on moving up the enforcement date. However, the community generally supported moving up the date. If the date were to move up, a few of the community respondents indicated that July 2025 would be the most ideal.

3. Hours of allowable operation would remain the same for electric powered equipment: 8 a.m. to 6 p.m. Monday through Friday. Residents can use electric equipment on Saturdays, Sundays and holidays during the hours of 9 a.m. to 5 p.m.
4. Violations would be tied to the property owner and not the gardening business.

In the transition period leading up to the July 1, 2024 enforcement date, staff will study and consider enforcement options. Staff will continue to conduct outreach and education to support commercial gardeners and community members prior to the start of enforcement to achieve higher compliance rates.

California law and incentives

Starting Jan. 1, 2024, gas powered gardening equipment (as well as other small off road engine equipment) would be prohibited at the point of sale¹. This law does not regulate existing equipment or use. In November 2022, the state began an electric gardening equipment discount program for commercial gardeners and landscapers. The program budget started at \$24 million and is targeted mainly for small businesses. Funds continue to be expended at a rapid rate. To date, \$10 million is left. The program is enabling commercial

¹ <https://ww2.arb.ca.gov/news/carb-approves-updated-regulations-requiring-most-new-small-road-engines-be-zero-emission-2024>

gardeners to purchase electric or battery operated equipment at a 70% discount off the retail price. The incentive is not available for residents or non-gardening businesses.

Other communities with gas powered gardening equipment rules

Many local governments in the Bay Area have already prohibited the use of gas powered gardening equipment, mainly leaf blowers. Those researched for the purposes of developing a policy include:

- Town of Atherton recently adopted a leaf blower ban that will start July 2024
- Palo Alto banned gas powered leaf blowers in residential neighborhoods in 2000
- Los Altos banned gas powered leaf blowers in 1991
- Los Gatos banned gas powered leaf blowers in 2014
- Portola Valley banned gas powered leaf blowers in 2019, and offered a time limited trade-in gas powered for electric leaf blower incentive program
- Berkeley banned gas powered leaf blowers in 1990
- Oakland banned gas powered leaf blowers and gas powered string trimmers in 2021.
- Eight cities in Marin County have also adopted gas powered leaf blower bans

Health and air quality affects from landscaping equipment

Research into the environmental harm caused by gas powered landscaping equipment, particularly leaf blowers, is extensive. According to the California Air Resources Board, operating a gas powered commercial backpack leaf blower for just one hour emits smog-forming pollution comparable to driving a new light-duty passenger car about 1,100 miles — approximately the distance from Los Angeles to Denver (over 15 hours of driving).

Gas powered landscaping equipment emit high concentrations of nitrogen oxides (NOx), reactive organic gases (ROG), and particulate matter (PM), creating health risks for operators and the public. This is especially concerning since workers who perform this work are historically from disadvantage communities. The California Air Resources Board estimates that smog produced from small off road engines (SORE) in the state will exceed the smog produced by all cars in California in the next few years, contributing to poor air quality in the state. About 70% of SOREs is gardening equipment. Attachment B and Attachment C provide an in depth analysis on the impacts of gas gardening equipment.

2030 Climate Action Plan goals

While gas powered leaf blowers alone make up a small percentage of greenhouse gas emissions that contribute to climate change, requiring all landscaping equipment to be zero emissions would yield greater reductions. It is equally important to recognize that some emissions sources like landscaping equipment are difficult to measure and are not captured in local greenhouse gas inventories but remain an important aspect to meet climate action goals. Gas powered landscaping equipment uses gasoline.

Burning/using one gallon of gasoline emits around 20 pounds of carbon dioxide (greenhouse gas that contributes to human caused climate change). Prohibiting the use of gas powered landscaping equipment within Menlo Park City limits would immediately reduce greenhouse gas emissions from this source and improve overall air quality as a result.

Gas and electric gardening equipment performance and considerations

Some gas powered gardening equipment remain more powerful than their electric versions particularly for leaf blowers. However, if used efficiently, electric gardening equipment could be comparable as noted in the case study below. For individual or private use, consumers report that electric gardening equipment generally performs adequately and meets their expectations.

For a commercial gardener, additional infrastructure may be needed, such as an electric panel upgrade (\$3,500) and installing dedicated 20 amp circuits (\$400 – \$800). Smart chargers can be used to help reduce electrical load, and cost \$650 or \$200 using the limited time state discount program. Each smart charger can charge up to four batteries; more smart chargers can be added to each other if more than four batteries need to be charged. Feedback from gardener outreach indicated that batteries tend to require replacement within one to two years, which can be a significant ongoing investment that adds to customer costs. See Attachment D for additional information on differences in performance, cost, and convenience for gas and electric leaf blowers.

Case study: EnviroViews

Staff interviewed EnviroViews that was able to transition 80% of their gardening equipment from gas to electric (hedge trimmers, lawnmowers, leaf blowers, string trimmers, etc.). EnviroViews is a second generation Latino family owned business in the Bay Area with about 30 employees. They provide gardening services for large residential complexes.

EnviroViews began their transition in 2020, piloting electric equipment with one crew, and expanding to all six crews in two years. The transition required a panel upgrade (\$3,500) and purchasing smart chargers. If equipment was used efficiently, one battery for each piece of equipment could last all day. Employees needed to be retrained on how and when to use leaf blowers. Their customer rates did increase by 10% to continue to invest in training, equipment and batteries. They did not need to hire additional labor to complete jobs. They also indicated that they were able to save significantly on fuel costs.

Before the transition, they spent \$1,600 per month per crew to fuel gardening equipment with gas, and now spend about \$275 per month in electricity for all crews. The return on their investment was two years. The recording of the interview is in English and Spanish on the city's webpage (Attachment G).

Menlo Park commercial gardener outreach and results

In October 2022, the City Council directed staff to engage one-on-one with gardeners on the proposed rules. From November 2022 to February 2023, staff canvassed the city to talk one-on-one with gardeners and landscapers about the proposed rules and the electric gardening equipment discount program. Flyers were developed in English and Spanish providing local information on where and how to obtain equipment (Attachment E). Volunteers in the community also assisted with distributing this information.

Other outreach included:

- Two weekend events at Soleska Market in Belle Haven with Spanish speaking public works staff
- Two webinars that included the interview with EnviroViews and a panel of local gardening equipment dealers that provide discounted electric equipment.
 - Staff reached out to 300 Menlo Park gardeners with a letter, email, and text messages that included information about the proposed rules, online survey, webinar and the electric equipment discount flyer (Attachment E).
 - Attendance at the live webinars was low. Recording links were sent to gardeners via email and text, and received greater views/participation.
- Promoting an event in April with the American Green Zone Alliance that showcased electric gardening equipment in Atherton.
- An online survey to receive feedback from gardeners. Twelve gardeners responded, and results are in Attachment F.

Some important insights gained from the one-on-one outreach include:

- Commercial gardeners in the City tend to be very small family run businesses (less than five employees).

- Concerns identified were:
 - Customers not willing to support the added cost it would take for them to transition
 - Language barriers in communicating new costs
 - Additional time and cost to charge and replace batteries
 - High cost to purchase the equipment
 - Added time to complete tasks due to lower performing/less powerful electric equipment
 - Enforcement needs to be consistent in order to maintain competitive pricing
- Wanted to know if the City was using electric equipment for its gardening and landscaping activities.
- Their family members expressed concerns about the health impacts of using gas powered gardening equipment.

If the City Council adopts a rule, staff could help provide resources to both customers and gardeners on how to support each other through the transition or how to reduce the need for powered equipment, such as using the equipment more efficiently, letting leaves lay during the fall, and reducing lawn area. However, it is still anticipated that customer cost will increase given other considerations described in this report that need to be undertaken to transition.

Community outreach and results

The following tools were used to engage with residents and non-commercial gardening businesses:

- Webpage for commercial gardeners and the community (Attachment G)
- An online survey. Results are summarized in Attachment F.
- Two articles were published in the city's digest newsletter (October 2022 and February 2023)
- Two articles were published in the waste bill newsletter (January and April 2023)
 - 5,013 were electronic bills and 3,818 were paper bills
- 19,797 postcards were mailed to residential and business addresses in English and Spanish
- Two webinars were held specifically for the public (March 2023)
 - Attendance was low during the live webinars, but recording received greater views/participation.
- Two weekend outreach events occurred at Soleska Market in Belle Haven (March and April 2023)
- One Farmer's Market outreach event (April 2023)

248 homeowners and 63 renters responded to the survey. About 70% are supportive of enforcing rules for leaf blowers and string trimmers starting July 2024. About half supported regulating other gas powered gardening equipment (lawnmowers, hedge trimmers, and chainsaws). About 70% said they are willing to pay for increased gardening service costs to help gardeners transition.

Feedback also included a request for an electric gardening equipment incentive/rebate program for residents and non-gardening businesses because the rules would create a financial hardship. Many also advocated to provide a Menlo Park incentive/rebate for gardeners along with the state equipment discount program.

Concerns about how to dispose of gas equipment before the end of its life and whether the batteries are able to be recycled were raised during outreach. Currently, there is a limited market for recycling batteries, the lithium ion battery recycling market is growing and regulations are increasing to encourage a circular economy to make batteries that can be easily recycled at the end of its life. Batteries cannot be placed in the regular waste stream and must be treated as hazardous material. The Shoreway Public Recycling Center in San Carlos accepts batteries. For disposing gas equipment, staff will explore options and a possible take-back program.

Potential rebate program for consideration

The City Council may wish to consider offering rebates to offset the cost of transitioning to zero emission landscape equipment. Since community survey results indicated that an estimated 67% of homeowners use gardening services, gardeners completing the transition will be critical to achieving the community’s desired goal for air quality, noise, and worker health. The state discount program funds are expected to be depleted in the next few months. Community members are also concerned with the high cost to transition. The following rebate program is recommended to support the community and its gardeners to comply with the July 2024 enforcement date.

Table 1: Potential rebates		
Category	Amount	Start date
Commercial gardeners working in Menlo park	Up to \$1,000 for new purchase of covered electric gardening equipment, extra batteries, or power management system; rebate can cover up to 100% of the purchase price of equipment, but would not exceed \$1,000 per business/gardener.	Begins after the state discounted electric gardening equipment funds have been expended for commercial gardeners.
Menlo Park residents and non-gardening businesses	Up to \$250 for newly purchased electric gardening equipment that includes: leaf blower, hedge trimmer, string trimmer, chainsaw, or lawnmower. Rebate can cover up to 100% of the purchase price of equipment, but would not exceed \$250 in total per address per year.	Begins first quarter of 2024 - six months before start of enforcement

The City Council could consider extending the rebate program for up to three years. A first year rebate program total of \$35,000 is included in the proposed fiscal year 2023-24 budget for consideration as a service level enhancement. Note: In the long run, equipment costs are expected to decrease due to economies of a scale as a result of the state’s requirement for manufactures to make and sell only electric gardening equipment in California.

Redwood City and the City of San Mateo offer rebates to gardeners and community members, but do not have rules for using gas powered gardening equipment. The Town of Atherton will be offering a local rebate program for electric leaf blowers as part of the recent rule they adopted. The potential Menlo Park rebate aligns with other cities’ rebate amounts for residents. However, it is higher for commercial gardeners due to additional cost considerations to transition, such as panel upgrades, dedicated circuits, smart chargers, and additional batteries.

For commercial gardeners, the proposed rebate could cover 20% to 60% of the costs to transition to electric leaf blowers and string trimmers that would be required by July 2024. Cost coverage depends on other additional items that may be needed to transition (e.g. extra batteries, dedicated circuits, power management system, etc.) It is important to note that many commercial gardeners already have electric leaf blowers due to requirements in other communities. The rebate could motivate gardeners to transition other equipment sooner.

For residents and non-gardening businesses, the rebate would cover 80% to 100% of the cost for electric leaf blowers and string trimmers.

After ordinance adoption outreach, support, and proposed incentive program administration

Ongoing outreach, education, incentive administration, and transition support will be needed for commercial gardeners and community members leading up to enforcement starting July 2024.

City operations transition timeline

The City Council and members of the public requested that the city take a leadership position on this issue by transitioning to electric gardening equipment ahead of the July 2024 and January 2029 enforcement dates. In addition, the City Council directed staff in April 2021 to focus on expanding a pilot program to transition landscaping and gardening equipment to electric in 2021-22. It was also noted in the outreach that gardeners were curious and observing whether the city was transitioning to electric gardening equipment.

The proposed fiscal year 2023-24 budget includes transitioning to electric leaf blowers and string trimmers in the upcoming fiscal year, pending City Council approval of the budget. Remaining equipment (push-behind lawnmowers and hedge trimmers) are anticipated to be transitioned by fall 2025; chainsaws also will be transitioned on this timeline so long as equipment that can be used to sustain City operations through intense and frequent winter storms, as experienced in the 2022-23 rainy season, is available on this timeline.

The City also employs contractors to perform landscaping/gardening activities. City staff have been working collaboratively with these contractors to encourage their early adoption of ZELE equipment and to make them aware of the available incentive programs to reduce costs and impacts, and many City contractors have made significant strides towards transitioning equipment. The City cannot require or impose additional requirements on these contracts until new proposals or bids are solicited when the agreements expire. However, the City has also been incorporating a requirement to use electric equipment in new agreements and construction bids since early 2023. These new requirements may result in increases in pricing during the transition phase.

Impact on City Resources

Additional budget and resources may be needed for rebate program and enforcement activities, and would be included in upcoming budget preparations over the next few years. A potential electric gardening equipment rebate program total of \$35,000 would be needed in fiscal year 2023-24 if approved by the City Council. The public works department also uses gardening equipment to maintain parks and public spaces. The estimated cost to transition from gas to electric gardening equipment is \$189,600. Currently, no incentives are available from the air district or other agencies for the City to transition. It is important to note that gas powered gardening equipment will not be available for sale starting Jan. 1, 2024 and related costs to transition will start to be incurred soon as a result by the City, its contractors, and private gardeners.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines § § 15378 and 15061(b) (3) as it will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. Information about this agenda item and meeting date also included:

- Updated project webpage with information about the meeting on June 6 that notified those subscribing to updates about this topic.
- A letter was sent to commercial gardeners in Menlo Park on June 2, and email and text message with meeting information was sent to gardeners on June 6.

- Information was also published in the City's weekly newsletter on June 5.

Attachments

- A. Ordinance to add Chapter 8.05 "Gasoline Powered Landscape Equipment" to the Menlo Park Municipal Code
- B. California Air Resources Board fact sheet on small off road engines (SOREs)
- C. California Air Resources Board report to the California Legislature on the potential health and environmental impacts of leaf blowers
- D. Differences in performance, cost, and convenience for gas and electric leaf blowers
- E. Letter to gardeners with Menlo Park electric gardening equipment discount flyer
- F. Summary of survey results
- G. Hyperlink – ZELE webpage: menlopark.gov/zele

Report prepared by:
Rebecca Lucky, Sustainability Manager

ORDINANCE NO. XXXX

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
ADDING CHAPTER 8.05 TO THE MENLO PARK MUNICIPAL CODE TO
PROHIBIT THE USE OF GASOLINE POWERED LANDSCAPE EQUIPMENT,
REPEALING CHAPTER 8.07 AND REPEALING SUBSECTION (C) OF
SECTION 8.06.040**

WHEREAS, the City of Menlo Park, as well as the State of California, have been moving forward in reducing our carbon footprint; and

WHEREAS, in 2019, the City Council declared a climate emergency (Resolution No. 6535) and adopted the 2030 Climate Action Plan (CAP) with the goal of making Menlo Park carbon neutral by 2030; and

WHEREAS, gas-powered landscape equipment emits greenhouse gases and other pollutants including carbon monoxide, nitrous oxides and hydrocarbons that are harmful to human health; and

WHEREAS research by the California Air Resources Board has identified the use of gas-powered small off-road engines, including leaf blowers, as detrimental to the environment as they emit high levels of air pollutants like oxides of nitrogen and other reactive organic gases; and

WHEREAS, many gas-powered landscape equipment produce noise exceeding Menlo Park's noise ordinance levels with the average 2-stroke backpack leaf blower's ability to emit upwards of 90 decibels that can lead to hearing loss; and

WHEREAS, on October 18, 2022, the City Council, in response to community concerns about gas powered leaf blower's negative effects on noise, health and air quality, directed staff to prepare a draft ordinance regulating five types of gas-powered gardening equipment (leaf blowers, string trimmers, lawnmowers, hedge trimmers and chainsaws) for final adoption by the City Council in 2023; and

WHEREAS, the City currently regulates gas powered equipment through its noise ordinance and a leaf blower ordinance; and,

WHEREAS, modern, readily available electric-powered landscape equipment is quiet and zero-emission and can cost less to purchase and operate with efficient use of the equipment and use of available incentives; and

WHEREAS, the City Council seeks to reduce greenhouse emissions and air pollution by regulating the use of gasoline-powered landscape equipment; and

WHEREAS, in 2021, the State of California passed AB 1346 outlawing the sale of new gas-powered leaf blowers, string trimmers, hedge trimmers, lawnmowers and chainsaws by January 1, 2024;

NOW, THEREFORE, the City Council of the City of Menlo Park does hereby ordain as follows::

Section 1. Adding Chapter 8.05 "Gasoline Powered Landscape Equipment" to the MPMC

A new chapter 8.05 entitled "Gasoline Powered Landscape Equipment" is hereby added to the Menlo Park Municipal Code (MPMC) to read in its entirety as follows:

8.05.010 Definitions

A. The following words and phrases shall, whenever used in this Chapter, be construed as set forth in this section:

"Electrically powered landscape equipment" means any mechanical landscape equipment utilized for maintaining landscaping that is powered by electric means, including but not limited to battery powered equipment and cordless rechargeable equipment

"Gasoline-powered landscape equipment" means any mechanical equipment utilized for maintaining landscaping that is powered by an internal combustion engine using gasoline, alcohol or other liquid or gaseous fluid, including but not limited to leaf blowers, string trimmers, lawnmowers, hedge trimmers and chainsaws

"Landscape equipment" means leaf blower, string trimmer, lawnmower, hedge trimmer and chainsaw

"Leaf blower" means a machine used to blow, displace, or vacuum leaves, dirt and/or debris

"String trimmer" means a machine used to cut grass, small weeds and groundcover

"Lawnmower" means a machine utilizing one or more revolving blades to cut a grass surface to an even height

"Hedge trimmer" means a machine used for trimming hedges and/or any boundary made by shrubs

"Chainsaw" means a machine with a set of teeth attached to a rotating chain driven along a guide bar that is used to fell, limb, buck, or prune trees and other vegetation

"Small off-road engines" means any device that utilizes gas-powered, spark ignition engine rated at or below 19 kilowatts (25 horsepower) including but not limited to a leaf blower. Engines in this category are used in lawn and garden equipment as well as other outdoor power equipment and specialty vehicles.

8.05.020 Prohibition of gasoline-powered landscape equipment

- A. Effective July 1, 2024, it shall be unlawful for any person to operate or authorize the operation of, permit, or direct another who engages in the operation of any gasoline-powered leaf blower and string trimmer within the city limits.
- B. Effective January 1, 2029, it shall be unlawful for any person to operate or authorize the operation of, permit, or direct another who engages in the operation of any gasoline-powered lawnmower, hedge trimmer and chainsaws.

8.05.030 Electrically powered landscape equipment - permitted days and times for operation

- A. Effective July 1, 2024, it shall be unlawful for any person to operate or authorize the operation of, permit, or direct another who engages in the operation of any electrically powered landscape equipment within city limits except during the following hours:

Monday to Friday: 8 a.m. to 6 p.m.

Weekends and Holidays: 9 a.m. to 5 p.m.

8.05.040 Noise limits applicable

Nothing herein shall supersede, alter or in any way affect the City regulations and laws regarding noise limits, including but not limited to those set forth in MPMC Chapter 8.06.

8.05.050 Violations

Violations of this Chapter shall be enforced against the owner of the property who used gas powered landscape equipment or has hired, employed or engaged the services of a person or business utilizing gas powered landscape equipment.

Violations of this Chapter shall be considered a nuisance per se and subject to administrative citations pursuant to MPMC Chapter 1.15, and any other available remedies at law or in equity including but not limited to actions or proceedings to abate violations of this Chapter. Such remedies shall be in addition to any other judicial and administrative penalties and remedies available to the city under chapters 1.14 and 1.12 of this code.

Section 2. Section 8.06.020 of the MPMC is amended to amend the definition of "powered equipment" as set forth below (additions in underline, deletions in ~~strike through~~):

"Powered equipment" means a motorized device powered by electricity or fuel used for construction, demolition and property or landscape maintenance or repairs. Powered equipment includes but is not limited to: electrically powered landscape equipment, lawn mowers, hedgers, parking lot sweepers, saws, sanders, motors, pumps, generators, blowers, wood chippers, vacuums, drills and nail guns (but specifically excluding internal fuel combustion engine leaf blowers).

Section 3. MPMC Chapter 8.07 Leaf Blowers is hereby repealed in its entirety.

Section 4. Subsection (C) of Section 8.06.040 exceptions of the MPMC is hereby repealed.

Section 5. CEQA exemption.

The City Council finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. (14 Cal. Code Regs. § 15061(b)(3)). The City Council further finds, under Title 14 of the California Code of Regulations Section 15308, that this ordinance is exempt from the requirements of CEQA in that it is an action taken for the protection of the environment.

Section 6. Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 7. Publication and posting.

In accordance with Government Code Section 33963 the City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage and adoption along with the names of those City Councilmembers voting for and against the ordinance in a newspaper of general circulation in the City of Menlo Park.

INTRODUCED on the thirteenth day of June, 2023.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on the ___ day of ___, 2023, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Jen Wolosin, Mayor

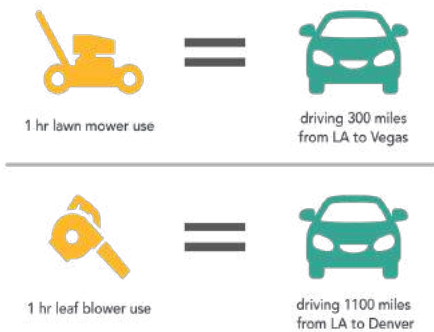
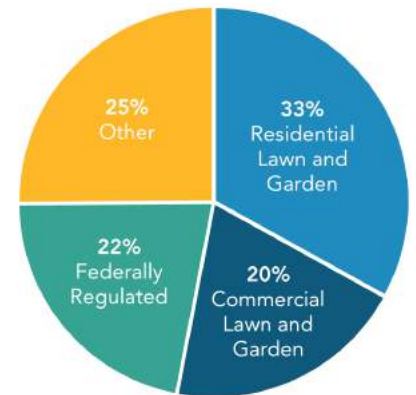
ATTEST:

Judi A. Herren, City Clerk

Small off-road engines in California

Small off-road engines (SORE) are spark-ignition engines rated at or below 19 kilowatts. Engines in this category are primarily used for lawn, garden, and other small off-road equipment. The population of SORE in California (15.4 million) is similar to that of light-duty passenger cars (14.0 million). As of 2021, 61% of California SORE are used in residential lawn and garden equipment, 8% in commercial lawn and garden equipment, 11% in federally regulated construction and farming equipment, and 20% in other equipment types (e.g., generators, pressure washers). While commercial lawn and garden equipment are only 8% of the SORE population, they account for 20% of smog-forming emissions from SORE during the summer.

SORE Emissions by Type (Summer)

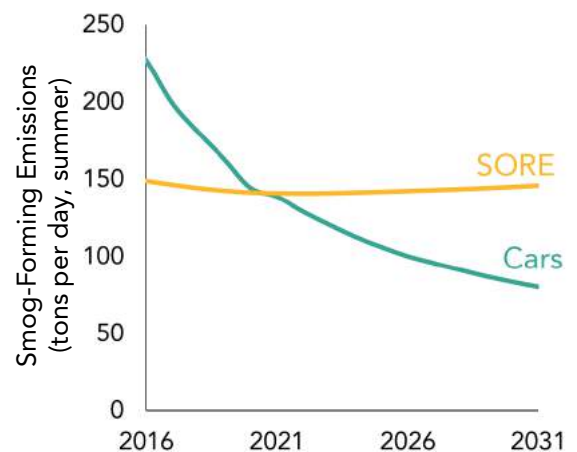


Emissions are significant

Today, operating a commercial lawn mower for one hour emits as much smog-forming pollution as driving a new light-duty passenger car about 300 miles – about the distance from Los Angeles to Las Vegas, more than 4 hours of drive time. For a commercial leaf blower, one hour of operation emits smog-forming pollution comparable to driving a new light-duty passenger car about 1100 miles – about the distance from Los Angeles to Denver, over 15 hours of driving.

The need for additional controls

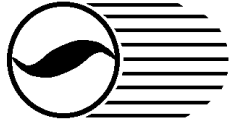
The California Air Resources Board (CARB) adopted emissions standards for SORE in 1990 and was the first agency in the world to control emissions from these engines. Due to the regulations put in place by CARB, SORE are 40-80% cleaner today than they were before the program began. However, total smog-forming emissions from SORE already exceed emissions from light-duty passenger cars in California. SORE emissions are projected to increase as the population grows, while emissions from passenger cars decrease. By 2031, SORE emissions are projected to be nearly twice those from passenger cars.



CARB actions to reduce emissions

Additional emission reductions are needed from SORE to reduce the disproportionate pollution burden on disadvantaged communities. To that end, California Executive Order N-79-20 sets a goal to transition off-road vehicles and equipment operations to 100 percent zero-emission by 2035 where feasible. Emission reductions are also needed to achieve attainment of ambient air quality standards. In 2021, CARB will consider new emission standards for SORE and expanded incentive programs to help California achieve these goals.

California Environmental Protection Agency



AIR RESOURCES BOARD

**A REPORT TO THE CALIFORNIA
LEGISLATURE ON THE POTENTIAL
HEALTH AND ENVIRONMENTAL
IMPACTS OF
LEAF BLOWERS**

Mobile Source Control Division

February 2000

State of California

AIR RESOURCES BOARD

**A REPORT TO THE CALIFORNIA LEGISLATURE ON
THE POTENTIAL HEALTH AND ENVIRONMENTAL
IMPACTS OF LEAF BLOWERS**

Public Hearing: January 27, 2000
Date of Revision: February 29, 2000

This report has been reviewed by the staff of the California Air Resources Board and approved for publication. Approval does not signify that the contents necessarily reflect the views and policies of the Air Resources Board, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

ACKNOWLEDGMENTS

This report on potential health and environmental impacts of leaf blowers was developed by the following Air Resources Board staff:

Mobile Sources Control Division:
Nancy L.C. Steele, D.Env. (Lead)
Scott Rowland
Michael Carter (Branch Chief)

Research Division:
Hector Maldonado
Cindy Stover

And with the assistance of additional staff: Cresencia Gapas-Jackson, Leslie Krinsk, Jeff Long, Keith Macias, Angela Ortega, Muriel Strand, John Swanton, Maggie Wilkinson, and Walter Wong.

The many other individuals who provided information and assistance for this report are listed in Appendix B.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
I. INTRODUCTION.....	7
A. Background	7
B. History of the Leaf Blower and Local Ordinances.....	7
C. Environmental Concerns	8
D. Health and Environmental Impacts	9
1. Life-cycle Impact Assessment.....	9
2. Risk Assessment.....	10
E. Public Involvement.....	10
F. Overview of This Report.....	11
II. DESCRIPTION OF THE HAZARDS	12
A. Exhaust Emissions.....	12
1. Characterization of Technology	12
2. Exhaust Emissions.....	13
a. Leaf Blower Population	13
b. Emission Inventory	14
3. Regulating Exhaust Emissions	14
a. State Regulations	14
b. Federal Regulations	15
c. South Coast AQMD Emissions Credit Program	16
4. Summary.....	16
B. Fugitive Dust Emissions	16
1. Definition of Fugitive Dust Emissions.....	17
2. Calculating Leaf Blower Emissions.....	18
a. Generation of Fugitive Dust by Leaf Blowers.....	18
b. Size Segregation of Particulate Matter	19
c. Calculation Assumptions and Limitations	19
d. Calculation Methodology	20
3. Characterization of Fugitive Dust Emissions.....	21
a. Emission Factors - This Study	21
b. Statewide Emissions Inventory - This Study	22
c. Previous Emissions Estimates: ARB, 1991	23
d. Previous Emissions Estimates: SMAQMD	23
e. Previous Emissions Estimates: AeroVironment	23
4. Particulate Composition	24
5. Regulating Fugitive Dust Emissions.....	24
a. State and Federal PM10 and PM2.5 Standards	25
b. Local District Regulations.....	25
6. Summary.....	25

C.	Noise Emissions	26
1.	Defining Noise	26
2.	Measuring the Loudness of Sound.....	27
a.	Loudness Description.....	27
b.	Sound Level Measurement.....	29
3.	Noise in California.....	30
a.	Noise Sources.....	30
b.	Numbers of People Potentially Exposed: the Public.....	30
c.	Numbers of People Potentially Exposed: the Operator	31
4.	Regulating Noise.....	31
a.	Federal Law	31
b.	State Law	31
c.	Local Ordinances	32
5.	Noise From Leaf Blowers.....	33
a.	Bystander Noise Exposure	33
b.	Operator Noise Exposure.....	34
6.	Use of Hearing Protectors and Other Personal Protection Gear	37
a.	Zero Air Pollution Study (1999).....	38
b.	Citizens for a Quieter Sacramento Study (1999b).....	38
c.	Survey99 Report (Wolfberg 1999)	38
7.	Sound Quality	39
8.	Summary.....	41
III.	REVIEW OF HEALTH EFFECTS.....	42
A.	Particulate Matter	42
B.	Carbon Monoxide	43
C.	Unburned Fuel	43
D.	Ozone	44
E.	Noise	44
1.	Hearing and the Ear.....	45
2.	Noise-Induced Hearing Loss	45
3.	Non-Auditory Physiological Response.....	46
4.	Interference with Communication.....	47
5.	Interference with Sleep.....	47
6.	Effects on Performance and Behavior	47
7.	Annoyance and Community Response	48
8.	Effects of Noise on Animals	49
IV.	POTENTIAL HEALTH AND ENVIRONMENTAL IMPACTS OF LEAF BLOWERS	50
A.	The Leaf Blower Operator	50
1.	Exhaust Emissions.....	51
2.	Fugitive Dust Emissions	52
3.	Noise	53
B.	The Public-at-Large	53

1. Exhaust Emissions.....	54
2. Fugitive Dust Emissions	55
3. Noise	55
C. Summary of Potential Health Impacts.....	56
V. RECOMMENDATIONS.....	58
VI. REFERENCES CITED	59

APPENDICES

Appendix A	SCR 19
Appendix B	Contact List
Appendix C	Ambient Air Quality Standards
Appendix D	Chemical Speciation Profile for Paved Road Dust
Appendix E	Physical Properties of Sound and Loudness Measures
Appendix F	American National Standard For Power Tools - Hand-held and Backpack, Gasoline-Engine-Powered Blowers B175.2-1996
Appendix G	Manufacturer-reported Noise Levels from Leaf Blowers
Appendix H	Research Needs
Appendix I	Future Technology and Alternatives
Appendix J	Exposure Scenarios for Leaf Blower Emissions and Usage
Appendix K	Bibliography

List of Tables

Table 1. Major findings of the Orange County Grand Jury and City of Palo Alto.....	8
Table 2. Statewide inventory of leaf blower exhaust emissions.....	14
Table 3. Exhaust emissions, per engine, for leaf blowers	15
Table 4. Silt loading values, Riverside County	21
Table 5. Leaf blower estimated emission factors, this study.....	22
Table 6. Leaf blower emissions, possible statewide inventory values, this study.....	22
Table 7. Leaf blower operator noise exposures and duration of use.....	36
Table 8. Sound levels of some leaf blowers.....	37
Table 9. Commercial leaf blower emissions compared to light duty vehicle emissions.....	51
Table 10. Homeowner leaf blower emissions compared to light duty vehicle emissions ...	54

List of Figures

Figure 1.	Comparison of sound levels in the environment	28
Figure 2.	Loudness levels of leaf blowers (50 ft).....	34
Figure 3.	Sound quality spectrum of a representative leaf blower.....	40
Figure 4.	Sound quality spectrum of a representative neighborhood.....	40

EXECUTIVE SUMMARY

Background and Overview

California Senate Concurrent Resolution No. 19 (SCR 19) requests the Air Resources Board (ARB) to prepare and submit a report to the Legislature on or before January 1, 2000, summarizing the potential health and environmental impacts of leaf blowers and including recommendations for alternatives to the use of leaf blowers and alternative leaf blower technology, if the ARB determines that alternatives are necessary. The goal of this report is to summarize for the California Legislature existing data on health and environmental impacts of leaf blowers, to identify relevant questions not answered in the literature, and suggest areas for future research.

The leaf blower was invented in the early 1970s and introduced to the United States as a lawn and garden maintenance tool. Drought conditions in California facilitated acceptance of the leaf blower as the use of water for many garden clean-up tasks was prohibited. By 1990, annual sales were over 800,000 nationwide, and the tool had become a ubiquitous gardening implement. In 1998, industry shipments of gasoline-powered handheld and backpack leaf blowers increased 30% over 1997 shipments, to 1,868,160 units nationwide.

Soon after the leaf blower was introduced into the U.S., its use was banned as a noise nuisance in two California cities, Carmel-by-the-Sea in 1975 and Beverly Hills in 1978. By 1990, the number of California cities that had banned the use of leaf blowers was up to five. There are currently twenty California cities that have banned leaf blowers, sometimes only within residential neighborhoods and usually targeting gasoline-powered equipment. Another 80 cities have ordinances on the books restricting either usage or noise level or both. Other cities have considered and rejected leaf blower bans. Nationwide, two states, Arizona and New Jersey, have considered laws at the state level, and five other states have at least one city with a leaf blower ordinance.

The issues usually mentioned by those who object to leaf blowers are health impacts from noise, air pollution, and dust. Municipalities regulate leaf blowers most often as public nuisances in response to citizen complaints. Two reports were located that address environmental concerns: the Orange County Grand Jury Report, and a series of reports from the City of Palo Alto City Manager's office. The City of Palo Alto reports were produced in order to make recommendations to the City Council on amending their existing ordinance. The Orange County Grand Jury took action to make recommendations to improve the quality of life in Orange County, and recommended that cities, school districts, community college districts, and the County stop using gasoline-powered leaf blowers in their maintenance and clean-up operations. The major findings of each are similar: leaf blowers produce exhaust emissions, resuspend dust, and generate high noise levels.

As per SCR 19, this report includes a comprehensive review of existing studies of the impacts of leaf blowers on leaf blower operators and on the public at large, and of the availability and actual use of protective equipment for leaf blowers. The receptors identified by the resolution are humans and the environment; sources of impacts are exhaust, noise, and dust. Because the Legislature specified that ARB use existing information, staff conducted no new studies. In order to locate existing data, staff searched the published literature, contacted potential resources and experts, and requested data from the public via mail and through a web page devoted to the leaf blower report. Two public workshops were held in El Monte, California, to facilitate further discussions with interested parties.

The methodology followed for this report depends on both the objectives of SCR 19 and available data. As staff discovered, in some areas, such as exhaust emissions, much is known; in other areas, such as fugitive dust emissions, we know very little. For both fugitive dust and noise, there are few or no data specifically on leaf blower impacts. For all hazards, there have been no dose-response studies related to emissions from leaf blowers, we do not know how many people are affected by those emissions, and no studies were located that address potential health impacts from leaf blowers. Therefore, staff determined to provide the Legislature with a report that has elements of both impact and risk assessments.

The body of the report comprises three components, following the introduction: hazard identification, review of health effects, and a characterization of the potential impacts of leaf blowers on operators and bystanders. In Section II, the emissions are quantified as to specific hazardous constituents, the number of people potentially exposed to emissions is discussed, and laws that seek to control emissions are summarized. Section III reviews health effects, identifying the range of potential negative health outcomes of exposure to the identified hazards. Section IV is a synthesis of hazard identification and health effects, characterizing potential health impacts that may be experienced by those exposed to the exhaust emissions, fugitive dust, and noise from leaf blowers in both occupational and non-occupational setting. Section V discusses recommendations. Additional information, including a discussion of research needs to make progress toward answering some of the questions raised by this report, a description of engine technologies that could reduce exhaust emissions and alternatives to leaf blowers, and a complete bibliography of materials received and consulted but not cited in the report, is found in the appendices.

Description of the Hazards

Hazard identification is the first step in an impact or risk assessment. Each of the three identified hazards are examined in turn, exhaust emissions, dust emissions, and noise. For each, the hazard is described and quantified, to the extent possible, and the number of people potentially exposed to the hazard is discussed. For exhaust emissions, the number of people potentially impacted is as high as the population of the state, differing within air basins. Fugitive dust emissions impact a varying number of people, depending on one's proximity to the source, the size of the particles, and the amount of time since the source resuspended the particles. Finally, we also discuss laws that control the particular hazard.

Exhaust emissions from leaf blowers consist of the following specific pollutants of concern: hydrocarbons from both burned and unburned fuel, and which combine with other gases in the atmosphere to form ozone; carbon monoxide; fine particulate matter; and other toxic air contaminants in the unburned fuel, including benzene, 1,3-butadiene, acetaldehyde, and formaldehyde. Exhaust emissions from these engines, while high compared to on-road mobile sources on a per engine basis, are a small part of the overall emission inventory. Emissions have only been controlled since 1995, with more stringent standards taking effect in 2000. The exhaust emissions from leaf blowers are consistent with the exhaust emissions of other, similar off-road equipment powered by small, two-stroke engines, such as string trimmers. Manufacturers have developed several different methods to comply with the standards and have done an acceptable job certifying and producing engines that are below the regulated limits. Electric-powered models that are exhaust-free are also available.

Data on fugitive dust indicate that the PM10 emissions impacts from dust suspended by leaf blowers are small, but probably significant. Previous emission estimates range from less than 1% to 5% of the statewide PM10 inventory. The ARB previously estimated statewide fugitive dust emissions to be about 5 percent of the total, the Sacramento Metropolitan AQMD estimated leaf blower fugitive dust emissions to be about 2 percent of the Sacramento county PM10 air burden, and AeroVironment estimated dust attributable to leaf blowers in the South Coast Air Basin to be less than 1% of all fugitive dust sources. Dust emissions attributable to leaf blowers are not part of the inventory of fugitive dust sources. ARB, therefore, does not have official data on the quantity of fugitive dust resuspended by leaf blowers. A more definitive estimate of leaf blower fugitive dust emissions will require verification of appropriate calculation parameters and representative silt loadings, measurement of actual fugitive dust emissions through source testing, and identification of the composition of leaf blower-generated fugitive dust.

Noise is the general term for any loud, unmusical, disagreeable, or unwanted sound, which has the potential of causing hearing loss and other adverse health impacts. While millions of Californians are likely exposed to noise from leaf blowers as bystanders, given the ubiquity of their use and the increasing density of California cities and towns, there is presently no way of knowing for certain how many are actually exposed, because of the lack of studies. In contrast, it is likely that at least 60,000 lawn and garden workers are daily exposed to the noise from leaf blowers. Many gardeners and landscapers in southern California are aware that noise is an issue and apparently would prefer quieter leaf blowers. Purchases of quieter leaf blowers, based on manufacturer data, are increasing. While little data exist on the noise dose received on an 8-hr time-weighted-average by operators of leaf blowers, data indicate that some operators may be exposed above the OSHA permissible exposure limit. It is unlikely that more than 10% of leaf blower operators and members of the gardening crew, and probably a much lower percentage, regularly wear hearing protection, thus exposing them to an increased risk of hearing loss. The sound quality of gasoline-powered leaf blowers may account for the high level of annoyance reported by bystanders.

Review of Health Effects

Potential health effects from exhaust emissions, fugitive dust, and noise range from mild to serious. Fugitive dust is not a single pollutant, but rather is a mixture of many subclasses of pollutants, each containing many different chemical species. Many epidemiological studies have shown statistically significant associations of ambient particulate matter levels with a variety of negative health endpoints, including mortality, hospital admissions, respiratory symptoms and illness, and changes in lung function. Carbon monoxide is a component of exhaust emissions which causes health effects ranging from subtle changes to death. At low exposures, CO causes headaches, dizziness, weakness, and nausea. Children and people with heart disease are particularly at risk from CO exposure. Some toxic compounds in gasoline exhaust, in particular benzene, 1,3-butadiene, acetaldehyde, and formaldehyde, are carcinogens. Ozone, formed in the presence of sunlight from chemical reactions of exhaust emissions, primarily hydrocarbons and nitrogen dioxide, is a strong irritant and exposures can cause airway constriction, coughing, sore throat, and shortness of breath. Finally, noise exposures can damage hearing, and cause other adverse health impacts, including interference with communication, rest and sleep disturbance, changes in performance and behavior, annoyance, and other psychological and physiological changes that may lead to poor health.

Potential Health and Environmental Impacts of Leaf Blowers

Health effects from hazards identified as being generated by leaf blowers range from mild to serious, but the appearance of those effects depends on exposures: the dose, or how much of the hazard is received by a person, and the exposure time. Without reasonable estimates of exposures, ARB cannot conclusively determine the health impacts from leaf blowers; the discussion herein clearly is about potential health impacts. The goal is to direct the discussion and raise questions about the nature of potential health impacts for those exposed to the exhaust emissions, fugitive dust, and noise from leaf blowers in both occupational and non-occupational settings.

For the worker, the analysis suggests concern. Bearing in mind that the worker population is most likely young and healthy, and that these workers may not work in this business for all of their working lives, we nonetheless are cautioned by our research. Leaf blower operators may be exposed to potentially hazardous concentrations of CO and PM intermittently throughout their work day, and noise exposures may be high enough that operators are at increased risk of developing hearing loss. While exposures to CO, PM, and noise may not have immediate, acute effects, the potential health impacts are greater for long term exposures leading to chronic effects. In addition, evidence of significantly elevated concentrations of benzene and 1,3-butadiene in the breathing zone of operators leads to concern about exposures to these toxic air contaminants.

Potential noise and PM health impacts should be reduced by the use of appropriate breathing and hearing protective equipment. Employers should be more vigilant in requiring and ensuring their employees wear breathing and hearing protection. Regulatory agencies should conduct educational and enforcement campaigns, in addition to exploring the extent of the use of protective gear. Exposures to CO and other air toxics are more problematic because there is no effective air filter. More study of CO and other air toxics exposures experienced by leaf blower

operators is warranted to determine whether the potential health effects discussed herein are actual effects or not.

Describing the impacts on the public at large is more difficult than for workers because people's exposures and reactions to those exposures are much more variable. Bystanders are clearly annoyed and stressed by the noise and dust from leaf blowers. They can be interrupted, awakened, and may feel harassed, to the point of taking the time to contact public officials, complain, write letters and set up web sites, form associations, and attend city council meetings. These are actions taken by highly annoyed individuals who believe their health is being negatively impacted. In addition, some sensitive individuals may experience extreme physical reactions, mostly respiratory symptoms, from exposure to the kicked up dust.

On the other hand, others voluntarily purchase and use leaf blowers in their own homes, seemingly immune to the effects that cause other people such problems. While these owner-operators are likely not concerned about the noise and dust, they should still wear protective equipment, for example, eye protection, dust masks, and ear plugs, and their exposures to CO are a potential problem and warrant more study.

Recommendations

The Legislature asked ARB to include recommendations for alternatives in the report, if ARB determines alternatives are necessary. This report makes no recommendations for alternatives. Based on the lack of available data, such conclusions are premature at this time. Exhaust standards already in place have reduced exhaust emissions from the engines used on leaf blowers, and manufacturers have significantly reduced CO emissions further than required by the standards. Ultra-low or zero exhaust emitting leaf blowers could further reduce public and worker exposures. At the January 27, 2000, public hearing, the Air Resources Board directed staff to explore the potential for technological advancement in this area.

For noise, the ARB has no Legislative mandate to control noise emissions, but the evidence seems clear that quieter leaf blowers would reduce worker exposures and protect hearing, and reduce negative impacts on bystanders. In connection with this report, the Air Resources Board received several letters urging that the ARB or another state agency set health-based standards for noise and control noise pollution.

A more complete understanding of the noise and the amount and nature of dust resuspended by leaf blower use and alternative cleaning equipment is suggested to guide decision-making. Costs and benefits of cleaning methods have not been adequately quantified. Staff estimates that a study of fugitive dust generation and exposures to exhaust emissions and dust could cost \$1.1 million, require two additional staff, and take two to three years. Adding a study of noise exposures and a comparison of leaf blowers to other cleaning equipment could increase study costs to \$1.5 million or more (Appendix H).

Fugitive dust emissions are problematic. The leaf blower is designed to move relatively large materials, which requires enough force to also blow up dust particles. Banning or restricting the use of leaf blowers would reduce fugitive dust emissions, but there are no data on fugitive dust emissions from alternatives, such as vacuums, brooms, and rakes. In addition, without a more complete analysis of potential health impacts, costs and benefits of leaf blower use, and potential health impacts of alternatives, such a recommendation is not warranted.

Some have suggested that part of the problem lies in how leaf blower operators use the tool, that leaf blower operators need to show more courtesy to passersby, shutting off the blower when people are walking by. Often, operators blow dust and debris into the streets, leaving the dust to be resuspended by passing vehicles. Interested stakeholders, including those opposed to leaf blower use, could join together to propose methods for leaf blower use that reduce noise and dust generation, and develop and promote codes of conduct by workers who operate leaf blowers. Those who use leaf blowers professionally would then need to be trained in methods of use that reduce pollution and potential health impacts both for others and for themselves.

I. INTRODUCTION

A. Background

California Senate Concurrent Resolution No. 19 (SCR 19) was introduced by Senator John Burton February 23, 1999, and chaptered May 21, 1999 (Appendix A). The resolution requests the Air Resources Board (ARB) to prepare and submit a report to the Legislature on or before January 1, 2000, “summarizing the potential health and environmental impacts of leaf blowers and including recommendations for alternatives to the use of leaf blowers and alternative leaf blower technology if the state board determines that alternatives are necessary.” The Legislature, via SCR 19, raises questions and concerns about potential health and environmental impacts from leaf blowers, and requests that ARB write the report to help to answer these questions and clarify the debate. The goal of this report, then, is to summarize for the California Legislature existing data on health and environmental impacts of leaf blowers, to identify relevant questions not answered in the literature, and suggest areas for future research.

As per SCR 19, this report includes a comprehensive review of existing studies of the impacts of leaf blowers on leaf blower operators and on the public at large, and of the availability and actual use of protective equipment for leaf blowers. The receptors identified by the resolution are humans and the environment; sources of impacts are exhaust, noise, and dust. Because the Legislature specified that ARB use existing information, staff conducted no new studies. In order to locate existing data, staff searched the published literature, contacted potential resources and experts, and requested data from the public via mail and through a web page devoted to the leaf blower report.

B. History of the Leaf Blower and Local Ordinances

The leaf blower was invented by Japanese engineers in the early 1970s and introduced to the United States as a lawn and garden maintenance tool. Drought conditions in California facilitated acceptance of the leaf blower as the use of water for many garden clean-up tasks was prohibited. By 1990, annual sales were over 800,000 nationwide, and the tool had become a ubiquitous gardening implement (CQS 1999a). In 1998, industry shipments of gasoline-powered handheld and backpack leaf blowers increased 30% over 1997 shipments, to 1,868,160 units nationwide (PPEMA 1999).

Soon after the leaf blower was introduced into the U.S., its use was banned in two California cities, Carmel-by-the-Sea in 1975 and Beverly Hills in 1978, as a noise nuisance (CQS 1999a, Allen 1999b). By 1990, the number of California cities that had banned the use of leaf blowers was up to five. There are currently twenty California cities that have banned leaf blowers, sometimes only within residential neighborhoods and usually targeting gasoline-powered equipment. Another 80 cities have ordinances on the books restricting either usage or noise level or both. Other cities have considered and rejected leaf blower bans. Nationwide, two states,

Arizona and New Jersey, have considered laws at the state level, and five other states have at least one city with a leaf blower ordinance (IME 1999).

Many owners of professional landscaping companies and professional gardeners believe that the leaf blower is an essential, time- and water-saving tool that has enabled them to offer services at a much lower cost than if they had to use rakes, brooms, and water to clean up the landscape (CLCA 1999). A professional landscaper argues that the customer demands a certain level of garden clean-up, regardless of the tool used (Nakamura 1999). The issues continue to be debated in various public forums, with each side making claims for the efficiency or esthetics of leaf blower use versus rakes and brooms. Leaf blower sales continue to be strong, however, despite the increase in usage restrictions by cities.

C. Environmental Concerns

The issues usually mentioned by those who object to leaf blowers are health impacts from noise, air pollution, and dust (Orange County Grand Jury 1999). The Los Angeles Times Garden Editor, Robert Smaus (1997), argues against using a leaf blower to remove dead plant material, asserting that it should be left in place to contribute to soil health through decomposition. Municipalities regulate leaf blowers most often as public nuisances in response to citizen complaints (for example, City of Los Angeles 1999). Two reports were located that address environmental concerns: an Orange County Grand Jury report (1999), and a series of reports written by the City Manager of Palo Alto (1999a, 1998a, 1998b). The purpose of the City of Palo Alto reports is to develop recommendations to the City Council on amending its existing ordinance. The Orange County Grand Jury took action to make recommendations that would “improve the quality of life in Orange County,” and recommended that cities, school districts, community college districts, and the County stop using gasoline-powered leaf blowers in their maintenance and clean-up operations. The major findings of each are similar (Table 1).

Table 1. Major Findings of the Orange County Grand Jury and City of Palo Alto

Orange County Grand Jury Report (1999)

- (1) Toxic exhaust fumes and emissions are created by gas-powered leaf blowers.
- (2) The high-velocity air jets used in blowing leaves whip up dust and pollutants. The particulate matter (PM) swept into the air by blowing leaves is composed of dust, fecal matter, pesticides, fungi, chemicals, fertilizers, spores, and street dirt which consists of lead and organic and elemental carbon.

City of Palo Alto City Manager’s Report (1999a)

- (1) Gasoline-powered leaf blowers produce fuel emissions that add to air pollution.
- (2) Leaf blowers (gasoline and electric) blow pollutants including dust, animal droppings, and pesticides into the air adding to pollutant problems.

(3) Blower engines generate high noise levels. Gasoline-powered leaf blower noise is a danger to the health of the blower operator and an annoyance to the non-consenting citizens in the area of usage.

(3) Leaf blowers (gasoline and electric) do produce noise levels that are offensive and bothersome to some individuals.

As will be discussed in more detail later in this report, the findings in these two reports about exhaust emissions and noise are substantiated in the scientific literature. The report's findings regarding dust emissions, however, were not documented or based on scientific analysis of actual emissions, but were based on common sense knowledge. The City of Palo Alto continued to examine the issue, at the behest of council members, and reported revised recommendations for the use of leaf blowers in Palo Alto in September (City of Palo Alto 1999b) and January 2000 (City of Palo Alto 2000). The City of Palo Alto subsequently voted to ban the use of fuel-powered leaf blowers throughout the city as of July 1, 2001 (Zinko 2000).

D. Health and Environmental Impacts

SCR 19 asks ARB to summarize potential health and environmental impacts of leaf blowers, and thus our first task is to determine what information and analysis would comprise a summary of health and environmental impacts. The methodology followed for this report is dependent both on the objectives of SCR 19 and on the available data. As staff discovered, in some areas, such as exhaust emissions, we know much; in other areas, such as fugitive dust emissions, we know very little. For both fugitive dust and noise, there are few or no data specifically on leaf blower impacts. For all hazards, there have been no dose-response studies related to emissions from leaf blowers and we do not know how many people are affected by those emissions. Therefore, staff determined to provide the Legislature with a report that has elements of both impact and risk assessments, each of which is described below.

1. Life-cycle Impact Assessment

Life-cycle impact assessment is the examination of potential and actual environmental and human health effects related to the use of resources and environmental releases (Fava et al. 1993). A product's life-cycle is divided into the stages of raw materials acquisition, manufacturing, distribution/transportation, use/maintenance, recycling, and waste management (Fava et al. 1991). In this case, the relevant stage of the life-cycle is use/maintenance. Life-cycle impact assessment tends to focus on relative emission loadings and resources use and does not directly or quantitatively measure or predict potential effects or identify a causal association with any effect. Identification of the significance and uncertainty of data and analyses are important (Barnthouse 1997).

2. Risk Assessment

A traditional risk assessment, on the other hand, seeks to directly and quantitatively measure or predict causal effects. A risk assessment evaluates the toxic properties of a chemical or other hazard, and the conditions of human exposure, in order to characterize the nature of effects and determine the likelihood of adverse impacts (NRC 1983). The four components of a risk assessment are:

Hazard identification: Determine the identities and quantities of chemicals present, the types of hazards they may produce, and the conditions under which exposure occurs.

Dose-response assessment: Describe the quantitative relationship between the amount of exposure to a substance (dose) and the incidence of adverse effects (response).

Exposure assessment: Identify the nature and size of the population exposed to the substance and the magnitude and duration of their exposure.

Risk characterization: Integrate the data and analyses of the first three components to determine the likelihood that humans (or other species) will experience any of the various adverse effects associated with the substance.

The goal of risk assessment is the quantitative characterization of the risk, i.e., the likelihood that a certain number of individuals will die or experience another adverse endpoint, such as injury or disease. A risk assessment is ideally followed up by risk management, which is the process of identifying, evaluating, selecting, and implementing actions to reduce risk to human health and ecosystems (Omenn et al. 1997). While a risk assessment appears to be preferable because it allows us to assign an absolute value to the adverse impacts, a quantitative assessment is difficult, if not impossible, to perform when data are limited.

E. Public Involvement

To facilitate public involvement in the process of preparing the leaf blower report, staff mailed notices using existing mailing lists for small off-road engines and other interested parties, posted a leaf blower report website, met with interested parties, and held two public workshops, in June and September, 1999. In addition to face-to-face meetings and workshops, staff contacted interested parties through numerous telephone calls and e-mails. A list of persons contacted for this report is found in Appendix B. Letters and documents submitted to the Air Resources Board as of December 15, 1999, are listed in Appendix K. The vast majority of those contacted were very helpful, opening their files and spending time answering questions. ARB staff were provided with manufacturer brochures; unpublished data; old, hard-to-find reports and letters; and given briefings and demonstrations. Many reports have been posted on the Internet, for downloading at no cost, which considerably simplified the task of tracking down significant works and greatly reduced the cost of obtaining the reports.

F. Overview of this Report

The main body of this report comprises four additional sections, followed by the references cited and appendices. Section II describes the hazards, as identified in SCR 19, from leaf blowers. Hazardous components of exhaust emissions, fugitive dust emissions, and noise are covered in turn, along with who is exposed to each hazard and how society has sought to control exposure to those hazards through laws. Section III reviews health effects of each of the hazards, with exhaust emissions subdivided into particulate matter, carbon monoxide, ozone, and toxic constituents of burned and unburned fuel. Health effects from fugitive dust are covered in the subsection on particulate matter. Section IV discusses the potential health and environmental impacts of leaf blowers, synthesizing the information presented in Sections II and III. Section V discusses recommendations. Additional information, including a discussion of research needs to make progress toward answering some of the questions raised by this report, a description of engine technologies that could reduce exhaust emissions and alternatives to gasoline-powered leaf blowers, and a complete bibliography of materials received and consulted but not cited in the report, is found in the appendix.

II. DESCRIPTION OF THE HAZARDS

This section of the report describes the three potential hazards identified by SCR 19 as resulting from leaf blowers. This report examines the three hazards that have been of most concern of the public and the Legislature. Hazard identification is the first step in an impact or risk assessment. In this section, then, each of the three identified hazards are examined in turn, exhaust emissions, dust emissions, and noise. For each, the hazard is described and quantified, and the number of people potentially exposed to the hazard is discussed. For exhaust emissions, the number of people potentially impacted is as high as the population of the state, differing within air basins. Fugitive dust emissions impact a varying number of people, depending on one's proximity to the source, the size of the particles, and the amount of time since the source resuspended the particles. Finally, in this section we also discuss laws that control the particular hazard.

A. Exhaust Emissions

Exhaust emissions are those emissions generated from the incomplete combustion of fuel in an engine. The engines that power leaf blower equipment are predominantly two-stroke, less than 25 horsepower (hp) engines. This section describes the two-stroke engine technology prevalent in leaf blower equipment and associated emissions, reviews the leaf blower population and emission inventory data approved by the Board in 1998, and describes federal, state, and local controls on small off-road engines.

1. Characterization of Technology

Small, two-stroke gasoline engines have traditionally powered leaf blowers, and most still are today.¹ The two-stroke engine has several attributes that are advantageous for applications such as leaf blowers. Two-stroke engines are lightweight in comparison to the power they generate, and operate in any position, allowing for great flexibility in equipment applications. Multi-positional operation is made possible by mixing the lubricating oil with the fuel; the engine is, thus, properly lubricated when operated at a steep angle or even upside down.

A major disadvantage of two-stroke engines is high exhaust emissions. Typical two-stroke designs feed more of the fuel/oil mixture than is necessary into the combustion chamber. Through a process known as scavenging, the incoming fuel enters the combustion chamber as the exhaust is leaving. This timing overlap of intake and exhaust port opening can result in as much as 30% of the fuel/oil mixture being exhausted unburned. Thus, exhaust emissions consist of both unburned fuel and products of incomplete combustion. The major pollutants from a two-stroke engine are, therefore, oil-based particulates, a mixture of hydrocarbons, and carbon monoxide. A two-stroke engine forms relatively little oxides of nitrogen emissions, because the extra fuel absorbs the heat and keeps peak combustion temperatures low.

¹Unless otherwise referenced, this section makes use of material in the ARB's Small Off Road Engine staff report and attachments, identified as MSC 98-02; 1998a.

Hydrocarbon emissions, in general, combine with nitrogen oxide emissions from other combustion sources to produce ozone in the atmosphere. Thus ozone, although not directly emitted, is an additional hazard from leaf blower exhaust. In addition, some of the hydrocarbons in fuel and combustion by-products are themselves toxic air contaminants, such as benzene, 1,3-butadiene, acetaldehyde, and formaldehyde (ARB 1997). The major sources of benzene emissions are gasoline fugitive emissions and motor vehicle exhaust; about 25% of benzene emissions are attributed to off-road mobile sources. Most 1,3-butadiene emissions are from incomplete combustion of gasoline and diesel fuels from mobile sources (about 96%). Sources of acetaldehyde include emissions from combustion processes and photochemical oxidation. The ARB has estimated that acetaldehyde emissions from off-road motor vehicles comprise about 27% of the total emissions. Finally, formaldehyde is a product of incomplete combustion and is also formed by photochemical oxidation; mobile sources appear to contribute a relatively small percentage of the total direct emissions of formaldehyde. Data do not exist to allow reliable estimation of toxic air contaminant emissions from small, two-stroke engine exhaust.

A small percentage of blowers utilize four-stroke engines. These blowers are typically "walk-behind" models, used to clean large parking lots and industrial facilities, rather than lawns and driveways. Overall, the engines used in these blowers emit significantly lower emissions than their two-stroke counterparts, with significantly lower levels of hydrocarbons and particulate matter. These four-stroke blower engines have a significantly lower population than the traditional two-stroke blowers and only peripherally fit the definition or commonly-accepted meaning of the term "leaf blower." They are mentioned here only for completeness, but are not otherwise separately addressed in this report.

2. Exhaust Emissions

a. Leaf Blower Population

The best estimates available indicate that there are approximately 410,000 gasoline-powered blowers in use in the state today. Less than 5,000 of those use four-stroke engines; the remainder (99%) utilize two-stroke engines. These data have been developed from information gathered through the development and implementation of ARB's small off-road engine regulation. Since the small off-road engine regulation does not apply to blowers powered by electric motors, data regarding the number of electric blowers are not as extensive. However, information shared by the handheld power equipment industry indicates that approximately 60 percent of blowers sold are electric. This would indicate that there are approximately 600,000 electric blowers in California. It must be stressed that the majority of the blower population being electric does not imply that the majority of usage accrues to electric blowers. In fact, electric blowers are more likely to be used by homeowners for occasional use, whereas virtually all professional gardeners use engine-powered blowers.

b. Emission Inventory

California's emission inventory is an estimate of the amount and types of criteria pollutants and ozone precursors emitted by all sources of air pollution. The emission inventory method and inputs for small off-road engines, with power ratings of less than 25 hp, were approved by the Board in 1998 (ARB 1998b) (Table 2). Exhaust emissions from leaf blowers contribute from one to nine percent of the small-off road emissions, depending on the type of pollutant, based on the 2000 emissions data. Exhaust emission standards for small off-road engines, which will be implemented beginning in 2000, will result in lower emissions in the future. By 2010, for example, hydrocarbon emissions are expected to shrink by 40% statewide, while CO declines by 35% and PM10 drops 90%. The reductions reflect the replacement of today's blowers with cleaner blowers meeting the 2000 standards.

Table 2. Statewide Inventory of Leaf Blower Exhaust Emissions (tons per day)

	Leaf blowers 2000	Leaf blowers 2010	All Lawn & Garden, 2000	All Small Off- Road, 2000
Hydrocarbons, reactive	7.1	4.2	50.24	80.07
Carbon Monoxide (CO)	16.6	9.8	434.99	1046.19
Fine Particulate Matter (PM10)	0.2	0.02	1.05	3.17

3. Regulating Exhaust Emissions

a. State Regulations

The California Clean Air Act, codified in the Health and Safety Code Sections 43013 and 43018, was passed in 1988 and grants the ARB authority to regulate off-road mobile source categories, including leaf blowers. The federal Clean Air Act requires states to meet national ambient air quality standards (Appendix C) under a schedule established in the Clean Air Act Amendments of 1990. Because many air basins in California do not meet some of these standards, the State regularly prepares and submits to the U.S. EPA a plan that specifies measures it will adopt into law to meet the national standards. Other feasible measures not specified in the state implementation plan may also be adopted as needed.

In December 1990, the Board approved emission control regulations for new small off-road engines used in leaf blowers and other applications. The regulations took effect in 1995, and include exhaust emission standards, emissions test procedures, and provisions for warranty and production compliance programs. In March of 1998, the ARB amended the standards to be implemented with the 2000 model year (ARB 1998a). Table 3 illustrates how the standards compare with uncontrolled engines for leaf blower engines. Note that there was no particulate

matter standard for 1995-1999 model year leaf blowers, but that a standard will be imposed beginning with the 2000 model year.

Among other features of the small off-road engine regulations is a requirement that production engines be tested to ensure compliance. Examination of the certification data confirms that manufacturers have been complying with the emissions regulations; in fact, engines that have been identified as being used in blowers tend to emit hydrocarbons at levels that are 10 to 40 percent below the existing limits. This performance is consistent with engines used in string trimmers, edgers, and other handheld-type equipment, which are, in many cases, the same engine models used in leaf blowers.

Table 3
Exhaust Emissions Per Engine for Leaf Blowers
(grams per brake-horsepower-hour, g/bhp-hr)

	Uncontrolled Emissions	1995-1999 Standards²	2000 and later Standards
HC+NO _x	283 + 1.0	180 + 4.0	54 ³
CO	908	600	400
PM	3.6	--- ⁴	1.5

b. Federal Regulations

Although the federal regulations for mobile sources have traditionally followed the ARB's efforts, the U.S. EPA has taken advantage of some recent developments in two-stroke engine technology. Specifically, compression wave technology has been applied to two-stroke engines, making possible much lower engine emissions. Bolstered by this information, the U.S. EPA (1999a) has proposed standards for blowers and other similar equipment that would be more stringent than the ARB standards. ARB plans a general review of off-road engine technology by 2001, and will consider the implications of this new technology in more detail then. A short description is included in Appendix I.

c. South Coast AQMD Emissions Credit Program

²Applicable to engines of 20-50 cc displacement, used by the vast majority of leaf blowers.

³For yr 2000, the HC + NO_x standards have been combined.

⁴There was no particulate standard for this time period.

The South Coast Air Quality Management District (SCAQMD), an extreme non-attainment area for ozone, has promulgated Rule 1623 - Credits for Clean Lawn and Garden Equipment. Rule 1623 provides mobile source emission reduction credits for those who voluntarily replace old high-polluting lawn and garden equipment with new low- or zero-emission equipment or who sell new low- or zero-emission equipment without replacement. The intent of the rule is to accelerate the retirement of old high-polluting equipment and increase the use of new low- or zero-emission equipment. In 1990, volatile organic carbon emissions from lawn and garden equipment in the South Coast Air Basin were 22 tons per day (SCAQMD 1996). To date, no entity has applied for or received credits under Rule 1623 (V. Yardemian, pers. com.)

4. Summary

Exhaust emissions from leaf blowers consist of the following specific pollutants of concern: hydrocarbons from both burned and unburned fuel, and which combine with other gases in the atmosphere to form ozone; carbon monoxide; fine particulate matter; and other toxic air contaminants, including benzene, 1,3-butadiene, acetaldehyde, and formaldehyde. Exhaust emissions from these engines, while high compared to on-road mobile sources on a per engine basis, are a small part of the overall emission inventory. Emissions have only been controlled since 1995, with more stringent standards taking effect in 2000. The exhaust emissions from leaf blowers are consistent with the exhaust emissions of other, similar off-road equipment powered by small, two-stroke engines, such as string trimmers. Manufacturers have developed several different methods to comply with the standards and have done an acceptable job certifying and producing engines that are below the regulated limits. Electric-powered models that are exhaust-free are also available.

B. Fugitive Dust Emissions

“Blown dust” is the second of the hazards from leaf blowers specified in SCR 19. For the purposes of this report, we will use the term “fugitive dust,” which is consistent with the terminology used by the ARB. This section, in addition to defining fugitive dust emissions, characterizes fugitive dust resuspended by leaf blowers by comparing previous estimates of emission factors (amount emitted per hour per leaf blower) and emissions inventory (amount resuspended per day by all leaf blowers statewide) to a current estimate, developed for this report. In addition, the potential composition of leaf blower dust and fugitive dust controls at the state and local levels are described.

1. Definition of Fugitive Dust Emissions

From the Glossary of Air Pollution Terms, available on the ARB's website,⁵ the following definitions are useful:

Fugitive Dust: Dust particles that are introduced into the air through certain activities such as soil cultivation, or vehicles operating on open fields or dirt roadways; a subset of fugitive emissions.

Fugitive Emissions: Emissions not caught by a capture system (often due to equipment leaks, evaporative processes, and windblown disturbances).

Particulate Matter (PM): Any material, except uncombined water, that exists in the solid or liquid state in the atmosphere. The size of particulate matter can vary from coarse, wind-blown dust particles to fine particle combustion products.

Fugitive dust is a subset of particulate matter, which is a complex mixture of large to small particles that are directly emitted or formed in the air. Current control efforts focus on PM small enough to be inhaled, generally those particles smaller than 10 micrometers (μm). So-called coarse particles are those larger than $2.5 \mu\text{m}$ in diameter, and are directly emitted from activities that disturb the soil, including construction, mining, agriculture, travel on roads, and landfill operations, plus windblown dust, pollen, spores, sea salts, and rubber from brake and tire wear. Those with diameters smaller than $2.5 \mu\text{m}$ are called fine particles. Fine particles remain suspended in the air for long periods and can travel great distances. They are formed mostly from combustion sources, such as vehicles, boilers, furnaces, and fires, with a small dust component. Fine particles can be directly emitted as soot or formed in the atmosphere as combustion products react with gases from other sources (Finlayson-Pitts & Pitts 1986).

Dust emissions from leaf blowers are not part of the inventory of fugitive dust sources. ARB, therefore, does not have official data on the quantity of fugitive dust resuspended by leaf blowers. No data on the amount and size distributions of resuspended dust from leaf blower activities have been collected, although estimates have been made. ARB evaluated three previous estimates (McGuire 1991, Botsford et al. 1996, Covell 1998) and developed a proposed methodology for estimating fugitive dust emissions from leaf blowers. The estimate presented below begins with the assumptions and calculations contained in the study conducted for the SCAQMD by AeroVironment (Botsford et al. 1996). Additional methodologies and data have been reviewed and derived from the U.S. EPA document commonly termed AP-42, and reports by the Midwest Research Institute; University of California, Riverside; and the Desert Research Institute.

⁵<http://arbis.arb.ca.gov/html/gloss.htm>

2. Calculating Leaf Blower Emissions

There are more than 400,000 gasoline-powered leaf blowers, plus approximately 600,000 electric leaf blowers, that are operated an estimated 114,000 hours per day in California. The fundamental premise in the calculations below is that leaf blowers are designed to move relatively large materials such as leaves and other debris, and hence can also be expected to entrain into the air much smaller particles, especially those below 30 μm diameter, which are termed total suspended particulate (PM_{tsp}). Subsets of PM_{tsp} include PM₁₀, particulates with diameters less than or equal to 10 μm , and PM_{2.5}, particulates with diameters less than or equal to 2.5 μm . Particles below 30 μm are not visible to the naked eye. Note that PM₁₀ includes PM_{2.5} particles, and PM_{tsp} includes PM₁₀ and PM_{2.5} particles.

a. Generation of Fugitive Dust by Leaf Blowers

The leaf blower moves debris such as leaves by pushing relatively large volumes of air, typically between 300-700 cubic feet per minute, at a high wind speed, typically 150 to 280 miles per hour (hurricane wind speed is >117 mph). A typical surface is covered with a layer of dust that is spread, probably non-uniformly, along the surface being cleaned. While the intent of a leaf blower operator may not be to move dust, the high wind speed and volume result in small particles being blown into the air. In order to calculate how much fugitive dust is generated by the action of a blower, we assume that this layer of dust can be represented by a single average number, the silt loading. This silt loading value, when combined with the amount of ground cleaned per unit time and the estimated PM weight fractions, produces estimates of fugitive dust emissions from leaf blowers.

Staff have located no fugitive dust measurement studies on leaf blowers, but have found previous calculations of fugitive dust estimates from leaf blowers. Based on a review of those estimates, staff applied the latest knowledge and research in related fields in order to derive a second-order approximation. This section presents the best estimates using existing data, while recognizing that estimates are only approximations. Variables that would affect fugitive dust emissions, and for which ARB has little or no empirical data, include, for example:

- (1) the specific surface types on which leaf blowers are used;
- (2) the percentage of use on each specific surface type;
- (3) effects of moisture, humidity, and temperature;
- (4) silt loading values for surfaces other than paved roadways, shoulders, curbs, and gutters and in different areas of the state; and
- (5) measurements of the amount of surface cleaned per unit time by the average operator.

Other variables are not expected to greatly influence fugitive dust emissions; the hurricane-force winds generated by leaf blowers are expected to overcome such influences, for example, as the roughness of relatively flat surfaces and the effect of particle static charge.

b. Size Segregation of Particulate Matter

PM emissions can be subdivided into the following three categories, operator emissions, local emissions, and regional emissions. They are differentiated as follows:

1) Operator emissions. PM₁₀ emissions approximate emissions to which the operator is exposed. The larger of these particles, between approximately 10 and 30 μm , have relatively short settling times, on the order of minutes to a couple of hours, maximum (Finlayson-Pitts & Pitts 1986, Gillies et al. 1996, Seinfeld & Pandis 1998). These would be emissions to which both the leaf blower operator and passersby would be exposed.

2) Local emissions. PM₁₀ emissions will be used to estimate "local" PM emissions. PM₁₀, which includes particles at or below 10 μm , may remain suspended for hours to days in the atmosphere (Finlayson-Pitts & Pitts 1986, Gillies et al. 1996, Seinfeld & Pandis 1998). These are emissions to which persons in the near-downwind-vicinity would be exposed, for example, residents whose lawns are being serviced and their neighbors, persons in commercial buildings whose landscapes are being maintained or serviced, and persons within a few blocks of the source.

3) Regional emissions. PM_{2.5} emissions may remain suspended for as long as a week or more (Finlayson-Pitts & Pitts 1986, Gillies, et al. 1996, Seinfeld & Pandis 1998). These particles are sized at or below 2.5 μm , and hence can be considered as contributors to regional PM emissions over a county or air basin because of their long residence time.

c. Calculation Assumptions and Limitations

The method presented uses the following assumptions.

1) Methods used for estimating wind blown dust for paved roads can be applied to estimating fugitive dust emissions from leaf blowers. That is, one can use an "AP-42" type (U.S. EPA 1997) of approach that calculates dust emissions based on the silt loading of the surfaces in question.

2) The typical leaf blower generates sufficient wind speed to cause sidewalk/roadway dust, in particular, particles 30 μm or less in aerodynamic diameter, to become airborne. The AeroVironment study (Botsford et al. 1996) assumed that nozzle air velocities ranged from 120 to 180 mph, and calculated that wind speed at the ground would range from 24 mph to 90 mph, sufficient to raise dust and equivalent, at the middle to high end speeds, to gale-force winds.

3) Currently available paved road, roadside shoulder, and gutter silt loadings (Venkatram & Fitz 1998) can be used to calculate emissions from leaf blowers, as there are no data on silt loadings on other surfaces. Observations and communications with landscapers indicate that leaf blowers are most commonly used to clean hardscape surfaces, such as sidewalks, after lawns and

flower beds have been trimmed and cuttings left on hardscapes. Debris is then frequently blown into the roadway before being collected for disposal.

4) The size fractions for particles for paved road dust can be used to calculate emissions from leaf blowers (G. Muleski, pers. comm.). The ratios of particle size multipliers, or “k” factors, are used to estimate the weight fraction of windblown dust for leaf blower usage. The “k” factor is a dimensionless value that represents the percentage of the total dust loading that is of a certain size fraction (MRI 1997).

5) Silt loading values and usage are assumed to be the same for residential and commercial leaf blower use. In an earlier draft, ARB staff had proposed different silt loading values for residential and commercial leaf blowers; comments were received that indicated that heavier-duty commercial leaf blowers were used in the same way in both residential and commercial settings. In addition, data on nozzle air speeds indicate that most electric leaf blowers, targeted at homeowners, have air speeds at or above 120 mph, the lowest air speed considered in the AeroVironment report (Botsford et al. 1996) as capable of raising dust.

6) The weight of total suspended particulates is equivalent to 100% of the silt loading, the weight fraction that comprises PM10 is 19% of the total, and the weight fraction comprising PM2.5 is 9% of the total (U.S. EPA 1997, MRI 1997, G. Muleski, pers. com). A recent study, however, found that 50-70% of the mass of PM₁₀ of paved road dust at three southern California locations is present in the PM10 fraction (Miguel et al. 1999), so more data would be helpful.

A final limitation is the recognition that emissions inventories are estimates of the unknown and unknowable actual emissions inventory. An earlier draft of this report was criticized as providing only estimates of emissions, and not actual emissions, when in fact all emissions inventories are based on models developed through scientific research on how the chemicals behave in the atmosphere, limited testing to determine emission factors, and industry-provided data on the population and usage of each particular source of air pollution. Each generation of emission inventories is an improvement over the one previous as assumptions are examined, tested, and modified. As discussed earlier, the estimate in this report builds on previous estimates.

d. Calculation Methodology

The proposed emissions estimation methodology uses measured silt loadings (Venkatram & Fitz 1998) and size fraction multipliers for PM10 and PM2.5 (U.S. EPA 1997, MRI 1997, G. Muleski, pers. com.).

$$EF_{\text{size}} = (sL) (Q) (f_{\text{size}})$$

where:

EF_{size} = PM30, or PM10, or PM2.5 emission factors;

sL = silt loading fraction, from ARB (1998b);

Q = amount of ground cleaned per unit time, estimated to be 1,600 m²/hr, corresponding to a forward speed of 1 mph, with the operator sweeping the blower in a one meter arc;
 f_{size} = fraction of PM₁₀ dust loading that comprises PM₁₀ (0.19) or PM_{2.5} (0.09).

Silt loading values are the critical parameter in the calculation. ARB has chosen, for this emissions estimate, to use recent data from a study conducted for the ARB by a team at the University of California, Riverside (Venkatram & Fitz 1998) (Table 4). As data were collected only in Riverside County, it is not known how representative they are of other areas of the state or of substrates cleaned by leaf blowers. The data are, however, the most complete we have to date. Because the data are not normally distributed, the median and 95% percentile samples for silt loading are used to represent the data set in calculations.

Table 4
Silt Loading Values, Riverside County
(grams per square meter, g/m²)

Roadway Type	Material Loading, Median	Silt Loading, Median (95%)	Range of Silt Loading Values
Paved Road	108.44	0.16 (6.34)	0.003-107.596
Roadway Shoulders	481.08	3.33 (15.73)	0.107-23.804
Curbs and Gutters	144.92	3.39 (132.94)	0.97-556.65

3. Characterization of Fugitive Dust Emissions

This section includes results from this present analysis, as well as results from previous estimates prepared by the ARB and others for comparison.

a. Emission Factors - This Study

Possible emission factors have been calculated for leaf blower use on paved roadways, roadway shoulders, and curbs and gutters (Table 5). Two emission factors are presented for each surface and particle size, based on the median and 95th percentile of the empirical silt loading data. The resulting range for PM₁₀ is from 48.6 to 1030.6 g/hr for PM₁₀, for example, depending on the surface cleaned. Cleaning of curbs and gutters generates the highest emission factors, whereas paved roadways and shoulders are lower. As discussed before, staff have no data on which to base emission factors for sidewalks, driveways, lawns, or flower beds.

**Table 5. Leaf Blower Estimated Emission Factors, This Study
(grams per hour, g/hr)**

Emission Factor	Paved Roadway, Median (95%)	Shoulders, Median (95%)	Curbs/Gutters, Median (95%)
Total Suspended Particulate	256.0 (10,144.0)	5,328 (25,168)	5,424 (212,704)
PM10	48.6 (1,927.4)	1,012.3 (4,781.9)	1,030.6 (40,413.8)
PM2.5	23.0 (913.0)	479.5 (2,265.0)	488.2 (19,143.4)

b. Statewide Emissions Inventory - This Study

Three potential statewide emissions inventory values (Table 6), in tons per day (tpd), have been calculated by multiplying the median emissions factors, shown above, by the hours of operation for each of three different substrates: paved roadways, paved shoulders, and paved curbs/gutters, based on the Riverside data. From the statewide emissions inventory, the total number of hours of operation in the year 2000 are estimated to be 113,740 hr/day, or 97,302 hr/day for gasoline-powered leaf blowers plus 16,438 hr/day for electric leaf blowers.⁶

**Table 6. Leaf Blower Emissions,
Possible Statewide Values, This Study
(tons per day, tpd)**

Emissions Inventory	Paved Roadway, Median	Shoulders, Median	Curbs/Gutters, Median
Total Suspended Particulates	32.1	667.4	679.4
PM10	6.1	126.8	129.1
PM2.5	2.9	60.1	61.2

The goal in developing an emissions inventory is to derive one statewide emissions inventory number for each category of particulate sizes, which can then be subdivided by air basin or air district. Ideally, ARB would have developed emissions factors for each surface cleaned by leaf blowers, and apportioned the emissions based on the percentage of hours spent cleaning each surface annually. Table 6, however, presents an array of values because staff have no data on the percentage of time spent cleaning various surfaces. For comparison, the 1996 statewide PM10

⁶On a per-unit basis, electric blowers are assumed to be used 10 hr/yr.

estimated emission inventory was 2,400 tpd; estimates for paved road dust, unpaved road dust, and fugitive windblown dust were 400, 610, and 310 tpd, respectively. Based on the estimates in Table 6, then, PM10 emissions impacts from leaf blower use could range from insignificant (0.25%) to significant (5.4%), on a statewide basis. Additional study is required to refine the analysis and develop a statewide emission inventory.

c. Previous Emissions Estimates: ARB, 1991

The ARB's Technical Support Division, in a July 9, 1991 response to a request from Richard G. Johnson, Chief of the Air Quality Management Division at the Sacramento Metropolitan Air Quality Management District, prepared a leaf blower emissions estimate in grams per hour of dust (McGuire 1991). PM10 emissions were reported as being 1,180 g/hr, or 2.6 lb/hr, which is the same order of magnitude as the present study's calculated emission factors for roadway shoulders and curbs/gutters (Table 5). If this emission factor is combined with current statewide hours-of-operation data of 113,740 hr/day of leaf blower usage, this would produce an emission inventory of 147.8 tpd of PM10, similar to the present study's inventory for shoulders and curbs/gutters (Table 6).

d. Previous Emissions Estimates: SMAQMD

Sacramento Metropolitan Air Quality Metropolitan District (SMAQMD) staff (Covell 1998) estimated that "Dust Emissions (leaf blowers only)" are 3.2 tpd in Sacramento County. The memo included commercial and residential leaf blower populations (1,750 commercial and 15,750 residential), and hours of use (275 hr/yr for commercial and 10 hr/yr for residential). Using these values one can calculate the assumed g/hr emission factor for particulate matter. The resulting emission factor is 1,680 g/hr, or 3.7 lb/hr. The resulting statewide emission inventory is 210.4 tpd, higher than this study's estimates (Tables 5 & 6).

e. Previous Emissions Estimates: AeroVironment

The South Coast AQMD commissioned AeroVironment to determine emission factors and preliminary emission inventories for sources of fugitive dust previously uninventoried; leaf blowers were one of the categories examined (Botsford et al. 1996). The study focused on PM10, and did not include field measurements. The study assumed that each leaf blower was used, at most, one day per week to clean 92.9 m² (1000 ft²) of ground. Silt loading was assumed to be 1.42 g/m². Combining these two values yields an emission factor of 5.5 g/hr. With an estimated 60,000 leaf blowers in the South Coast Air Basin, AeroVironment calculated an emission inventory of 8.6 tpd, just for the South Coast AQMD, more than double the basin-wide inventory calculated for the Sacramento Metropolitan AQMD (above). The obvious difference between this estimate and the others summarized herein is the assumption that each leaf blower is used for no more than one day per week and is used to clean an area equivalent to only one front yard (20 ft by 50 ft); as commercial gardeners could not make a living cleaning one front yard once per week, this figure is obviously much too low. It is, however, coincidentally similar to the present study's estimate for paved roadways (Table 6).

4. Particulate Composition

Substances such as fecal material, fertilizers, fungal spores, pesticides, herbicides, pollen, and other biological substances have been alleged to make up the dust resuspended by leaf blower usage (Orange County Grand Jury 1999), and thus staff looked for data on the composition of particulate matter. Little information is available. Suspended paved road dust is a major contributor to airborne particulate matter in Los Angeles and other cities (Miguel et al. 1999). Staff considered, therefore, size-segregated chemical speciation profiles for paved road dust to chemically characterize leaf blower PM emissions. The chemical speciation profiles for paved road dust show small percentages of the toxic metals arsenic, chromium, lead, and mercury. In addition to soil particles, paved road dust emissions may contain contributions from tire and brake wear particles. Paved road dust chemical speciation, however, characterizes the dust by elemental composition, and was not useful in estimating health impacts for this assessment. ARB's chemical speciation profile for paved road dust is presented in Appendix D for information.

Recently, however, researchers published a study on allergens in paved road dust and airborne particles (Miguel et al. 1999). The authors found that biologic materials from at least 20 different source materials known to be capable of causing or exacerbating allergic disease in humans are found in paved road dust, including pollens and pollen fragments, animal dander, and molds. Allergen concentrations in the air are increased above the levels that would otherwise occur in the absence of suspension by passing traffic. The authors conclude that paved road dust is a ubiquitous mixed source of allergenic material, resuspended by passing traffic, and to which virtually the entire population is exposed. The applicability of this study to particulate matter resuspension by leaf blower usage is unknown, but it is likely that leaf blowers would be as effective at resuspending paved road dust as automobiles. Information on the characteristics of other sources of resuspended particulates, for example lawns and gardens, is unfortunately lacking.

5. Regulating Fugitive Dust Emissions

Fugitive dust emissions are generally regulated as a nuisance, although PM10 and PM2.5 are specifically addressed through the state planning process as criteria air pollutants. There are no explicit federal, state, or local regulations governing leaf blower fugitive dust emissions.

a. State and Federal PM10 and PM2.5 Standards

The California and Federal ambient air quality standards for PM10 and PM2.5 are located in Appendix C. Any state that has air basins not in attainment with the standards must submit a plan to U.S. EPA on how they will achieve compliance. For California, most of the state violates the PM10 standard; attainment status has not yet been determined for the new PM2.5 standard (promulgated July 18, 1997 and under challenge in the courts). California, and its air districts, is therefore required to control sources of PM10, including fugitive dust.

b. Local District Regulations

Many air districts have a fugitive dust control rule that prohibits activities that generate dust beyond the property line of an operation. For example, the SCAQMD Rule 403 states: "A person shall not cause or allow the emissions of fugitive dust from any active operation, open storage pile, or undisturbed surface area such that the presence of such dust remains visible in the atmosphere beyond the property line of the emission source." In addition, rules may place limits on the amount of PM10 that can be detected downwind of an operation that generates fugitive dust; for SCAQMD that limit is $50 \mu\text{g}/\text{m}^3$ [SCAQMD Rule 403]. The Mojave AQMD limits PM emissions to $100 \mu\text{g}/\text{m}^3$ [Mojave AQMD Rule 403]. Others, such as the San Joaquin Unified APCD, define and limit visible emissions (40% opacity) from activities that generate fugitive dust emissions [SJUAPCD Rule 8020]. Finally, another approach is to simply request individuals take reasonable precautions to prevent visible particulate matter emissions from moving beyond the property from which the emissions originate [Great Basin Unified APCD Rule 401].

6. Summary

Data on fugitive dust indicate that the PM10 emissions impacts from dust suspended by leaf blowers are small, but probably significant. Previous emission estimates range from less than 1% to 5% of the statewide PM10 inventory. The ARB previously estimated statewide fugitive dust emissions to be about 5 percent of the total, the Sacramento Metropolitan AQMD estimated leaf blower fugitive dust emissions to be about 2 percent of the Sacramento county PM10 air burden, and AeroVironment estimated dust attributed to leaf blowers in the South Coast Air Basin to be less than 1% of all fugitive dust sources. Dust emissions attributable to leaf blowers are not part of the inventory of fugitive dust sources. ARB, therefore, does not have official data on the quantity of fugitive dust resuspended by leaf blowers. A more definitive estimate of leaf blower fugitive dust emissions will require research to verify appropriate calculation parameters, determine representative silt loadings, measure actual fugitive dust emissions through source testing, and identify the chemical composition of leaf blower-generated fugitive dust.

C. Noise Emissions

The third of the hazards from leaf blowers identified in SCR 19 is noise. This section defines noise, describes the physical properties of sound and how sound loudness is measured, discusses noise sources, the numbers of Californians potentially exposed to noise, and how noise is regulated at the federal, state, and local levels, and addresses specific sound loudness and quality from leaf blowers. In addition, the incidence of the use of hearing protection, and other personal protective equipment, by leaf blower operators is described.

1. Defining Noise

Noise is the general term for any loud, unmusical, disagreeable, or unwanted sound. In addition to damaging hearing, noise causes other adverse health impacts, including interference with communication, rest and sleep disturbance, changes in performance and behavior, annoyance, and other psychological and physiological changes that may lead to poor health (Berglund & Lindvall 1995). In this report, noise will be used to refer both to unwanted sounds and sounds that damage hearing. The two characteristics, although related, do not always occur together.

The effects of sound on the ear are determined by its quality, which consists of the duration, intensity, frequency, and overtone structure, and the psychoacoustic variables of pitch, loudness, and tone quality or timbre, of the sound. Long duration, high intensity sounds are the most damaging and usually perceived as the most annoying. High frequency sounds, up to the limit of hearing, tend to be more annoying and potentially more hazardous than low frequency sounds. Intermittent sounds appear to be less damaging than continuous noise because the ear appears to be able to recover, or heal, during intervening quiet periods. Random, intermittent sounds, however, may be more annoying, although not necessarily hazardous, because of their unpredictability (Suter 1991).

The context of the sound is also important. While certain sounds may be desirable to some people, for example, music at an outdoor party, others may consider them noise, for example, those trying to sleep. Even desirable sounds, such as loud music, may cause damage to hearing and would be considered noise in this context. Thus, not only do loudness, pitch, and impulsiveness of sound determine whether the sound is noise, but also the time of day, duration, control (or lack thereof), and even one's personality determine whether sounds are unwanted or not.

The physical and psychoacoustic characteristics of sound, and thus noise, are described in more detail in Appendix E. The discussion is focused on information necessary for the reader to understand how sound is measured, and clarify measures of leaf blower sound. The interested reader is referred for more information to any physics or acoustic reference book, or the works referred to herein.

2. Measuring the Loudness of Sound

The weakest intensity of sound a health human ear can detect has an amplitude of 20 millionths of a Pascal⁷ (20 μPa). The loudest sound the human ear can tolerate, the threshold of pain, has an amplitude ten million times larger, or 200,000,000 μPa . The range of sound intensity between the faintest and the loudest audible sounds is so large that sound pressures are expressed using a logarithmically compressed scale, termed the decibel (dB) scale. The decibel is simply a unit of comparison between two sound pressures. In most cases, the reference sound pressure is the acoustical zero, or the lower limit of hearing. The decibel scale converts sound pressure levels (SPL) to a logarithmic scale, relative to 20 μPa (Figure 1).

$$\text{SPL, dB} = 10 \log_{10} (P^2/P_0^2)$$

Where P is the pressure fluctuation in Pascals,
P₀ is the reference pressure; usually 20 μPa .

Thus, from this relationship, each doubling of sound pressure levels results in an increase of 6 dB. From the relationship between sound intensity and distance (Appendix E), we find also that doubling the distance between the speaker (source) and listener (receiver), drops the level of the sound by approximately 6 dB. Sound pressure levels are not directly additive, however, but must first be expressed as mean square pressures before adding (Berglund & Lindvall 1995). The equation is as follows:

$$\text{SPL} = 10 \log_{10} [10^{\text{SPL}_1/10} + 10^{\text{SPL}_2/10} + \dots + 10^{\text{SPL}_x/10}]$$

For example, if two sound sources have SPLs of 80 dB and 90 dB, then the resulting sound pressure is 90.4 dB. Adding two sounds with the same SPL, for example 90 dB, increases the total SPL by 3 dB, to 93 dB.

a. Loudness Description

Sound pressure level, however, does not completely describe loudness, which is a subjective perception of sound intensity. Loudness increases with intensity, but is also dependent on frequency. Thus the human ear may not perceive a six dB increase as twice as loud. In general, people are more sensitive to sounds in the middle of the range of hearing, from around 200 Hz to 5000 Hz. Fletcher and Munson (1933) first established the 1000-Hz tone as the standard sound against which other tones would be judged for loudness. Later, Stevens (1955) proposed that the unit of loudness be termed the sone, and that one sone be ascribed to a 1000-Hz tone set at a SPL

⁷Other units used to represent an equivalent sound pressure include 0.0002 μbar , 0.0002 dyne/cm², and 20 $\mu\text{N/m}^2$.

of 40 dB under specified listening conditions. On the sone scale, a sound twice as loud as one sone would be two sones, four times as loud would be four sones, and so on.

Equal loudness contours, identified in units of phons, demonstrate how the SPL, in dB, of a tone must be varied to maintain the perception of constant loudness. Ideally, sound measurement meters would give a reading equal to loudness in phons, but because phons are based on human perception, and perception process will vary from individual to individual, this has not been practical until recently (Berglund & Lindvall 1995). Loudness is still measured in decibels, however, following past practices. Various filters have been devised to approximate the frequency characteristics of the human ear, by weighting sound pressure level measurements as a function of frequency. Several weighting systems have been developed, but the one in most common use is the A-weighted filter, with sound pressure levels commonly expressed as dBA. Loudness levels range from about 20 dB (24-hr average) in very quiet rural areas, to between 50 and 70 dB during the daytime in cities. Additional examples of typical loudness measures are illustrated in Figure 1.

Perceived Sound Level	Sound Level		Examples	Leaf Blower Reference
	dB	μPa		
PAINFULLY LOUD	160	2×10^9	fireworks at 3 feet	OSHA limit for impulse noise
	150		jet at takeoff	
	140	2×10^8	threshold of pain	
UNCOMFORTABLY LOUD	130		power drill	90-105 dB leaf blower at operators ear 90 dB OSHA permissible exposure limit
	120	2×10^7	thunder	
	110		auto horn at 1 meter	
MODERATELY LOUD	100	2×10^6	snowmobile	62-75 dB Leaf blower at 50 feet
	90		diesel truck, food blender	
	80	2×10^5	garbage disposal	
	70		vacuum cleaner	
QUIET	60	2×10^4	ordinary conversation	
	50		average home	
VERY QUIET	40	2×10^3	library	
	30		quiet conversation	
BARELY AUDIBLE	20	2×10^2	soft whisper	
	10		rustling leaves	
	0	2×10^1	threshold of hearing	

dB= decibels
 μPa = micro Pascals

Fig. 1. Comparison of sound levels in the environment

b. Sound Level Measurement

The ANSI B175 Accredited Standard Committee, a group that includes government officials, Underwriters Laboratories, leaf blower manufacturers, and trade associations, and which is accredited by the American National Standards Institute, Inc. (ANSI), developed a method for measuring the sound levels from leaf blowers (Appendix F). The purpose of the standard method is to establish sound level labeling requirements for leaf blowers applicable to noise received by bystanders. The standard also includes requirements for safety precautions to be included in manuals for use by operators. The ANSI standard specifies a test area in a field in which natural ground cover does not exceed three inches in height and which is free of any large reflecting surfaces for a minimum of 100 ft from the blower. The sound level meter must be set for slow response and the A-weighting network. Once the blower is adjusted and running properly, the receiver (microphone) is set up 50 ft from the operator and 4 ft above ground. Sound level readings are taken in a circle every 45 degrees for a total of eight readings, as either the operator rotates or the microphone is moved. The eight readings are then averaged and reported to the nearest decibel.

In wide use, the method has been criticized as sometimes generating unreproducible results. Typical comments expressed in meetings with ARB staff were to the effect that the manufacturer-reported sound levels for leaf blowers can be significantly different than those obtained by some third party testers. The standard has been revised (Dunaway 1999) and approved February 11, 2000, which may address the issue of reproducibility. Other comments about the method criticize the fundamental requirements for testing in an open field, with no reflecting surface for 100 ft, and the receiver 50 ft away, as being unrealistic and unrepresentative of real-world use on residential properties (Allen 1999a). A standardized method, however, usually does not reflect real-world conditions, but rather is useful for comparing sound levels from different blowers tested under the same conditions. The complexity and precision required by the method does appear to render it unsuitable as a field enforcement standard (Zwerling 1999).

While the ANSI method yields sound level exposures for a bystander, the noise level exposure for the operator is measured using an audiodosimeter. For occupational exposures, a dosimeter can report the noise dose as a percentage relative to the permissible exposure level of 90 dBA (8 CCR General Industry Safety Orders, Article 105, Appendix A; 29 CFR 1910.25). The eight-hour time-weighted-average sound level experienced by the worker is then calculated from the dose, using a formula specified in regulations. Additional details can be found in the OSHA and Cal/OSHA Technical Manuals.⁸

⁸OSHA's Technical Manual is available on their website (www.osha.gov) and noise measurement is in Section III, Chapter 5. Cal/OSHA's manual is available from Cal/OSHA.

3. Noise in California

a. Noise Sources

By all accounts, noise exposure is increasing both as the number of sources increases and as existing sources get noisier (Berglund & Lindvall 1995). We drive our cars more and take more airplane trips, increasing noise from what have been the two major sources of noise for at least the last two decades; sales of engine-powered lawn and garden equipment continue to increase; and movie theaters and video arcades use noise to increase excitement (Consumer Reports 1999, PPEMA 1999, U.S. EPA 1981). The major sources of noise are transportation, from road, air, and rail traffic, which impact the most people of all noise sources; industrial machinery and facilities; construction; building services and maintenance activities; domestic noise from one's neighbors; and self-inflicted noise from leisure activities, which may qualify as domestic noise to one's neighbors (Berglund & Lindvall 1995).

b. Numbers of People Potentially Exposed: the Public

It is not possible to state with any certainty how many people in California are exposed to noise from leaf blowers. Indeed, the most recent nationwide estimate of the number of people exposed to noise from various sources dates from 1981. In that study, the U.S. EPA estimated that 730,000 people were exposed to noise from leaf blowers above the day-night average sound level of 45 dBA (U.S. EPA 1981). The use of leaf blowers has grown tremendously since 1980, however, and thus these numbers cannot be reliably scaled for an estimate of the number of Californians exposed to leaf blower noise today.

As California's population has grown almost 41% since 1970 (CDF 1998, CDF 1999), population density, and thus noise exposure, has increased. California classifies counties as being metropolitan or non-metropolitan, based on the Bureau of the Census categorization of standard metropolitan statistical areas as containing or being close to a large city. As of January 1, 1999, the thirty-four metropolitan counties comprise 96.7% of California's population, or about 32.67 million people. The population of Californians who live in non-metropolitan counties, while small at 3.3% of the total, or 1.11 million people, has increased faster than the population in metropolitan counties (47.1% increase versus 40.5% increase, 1970-1999) and thus even noise exposures in the lowest populated counties have likely increased over the past thirty years.

Unfortunately, without a comprehensive and current survey of noise exposures in California, it is not possible to determine, from available data, how many Californians are exposed to noise, and in particular exposed to noise from leaf blowers. The only conclusion is that the number of people affected by noise is likely increasing as population density increases even in non-metropolitan areas of the state. How many people are exposed to, and annoyed by, noise from leaf blowers is a question for future research.

c. Numbers of People Potentially Exposed: the Operator

In southern California, about 80% of lawn and landscape contracting firms use leaf blowers (Anon 1999), thus one can assume that most gardeners are exposed to the noise from leaf blowers, either as an operator or from working in close proximity to the operator. From the California database of employees covered by unemployment insurance, in the fourth quarter of 1998 there were 59,489 workers reported by 6790 firms, in the SIC Code 0782, Lawn and Garden Services (M. Rippey, pers. com). This number is assumed to be the lower bound of those exposed, as there are an unknown number of self-employed gardeners, who may not report their earnings or be covered by unemployment insurance. Future research could test the hypothesis that all lawn and garden service workers are exposed, as operators or from working in close proximity, to the noise from leaf blowers.

4. Regulating Noise

a. Federal Law

The Noise Control Act of 1972 established a statutory mandated national policy “to promote an environment for all Americans free from noise that jeopardizes their public health and welfare.” The Office of Noise Abatement and Control was established within the U.S. EPA to carry out the mandates of the Noise Control Act. The Office of Noise Abatement and Control published public health and welfare criteria; sponsored an international conference; examined dose-response relationships for noise and its effects; identified safe levels of noise; promulgated noise regulations; funded research; and assisted state and local offices of noise control; until funding for the office was removed in 1981-1982 (Suter 1991; Shapiro 1991). In its almost ten years of operation, U.S. EPA produced several documents that are still relevant and were consulted from this report.

The hearing of workers is protected by regulations promulgated under the Occupational Safety and Health Act of 1970. As California employers fall under California’s equivalent program, hearing protection law will be covered below under state law.

b. State Law

California enacted the Noise Control Act of 1973 to “establish a means for effective coordination of state activities in noise control and to take such action as will be necessary...” [HSC 46000(g)]; the office was established within the California Department of Health Services. One of the primary functions of the office was to provide assistance to local governmental entities that develop and implement noise abatement procedures, and several guidelines were written. Funding for the office, however, ended beginning in the 1993-1994 fiscal year; no relevant reports or guidelines were located for this report.

California’s counterpart to OSHA, the Cal/OSHA, has a General Industry Safety Order [8 CCR Article 105 5095-5100] for the control of noise exposure that is very similar to the federal

OSHA regulations. When sound level exposure exceeds 85 dBA for an 8-hour time-weighted average, employers are required to provide a hearing conservation program at no cost to employees. The hearing conservation program includes audiometric testing of hearing, provision of hearing protectors, training, and record keeping. Employers are required to provide employees with hearing protection when noise exposure exceeds 90 dBA in an eight-hour work day; as noise levels increase, the allowable exposure duration also decreases. The permitted duration for an employee exposed to 103 dBA, for example, is one hour and nineteen minutes in a work day [8 CCR 5096 (a)(b)]. Employers are allowed to use personal protective equipment to reduce sound level exposures if administrative or engineering controls are not feasible or fail to reduce sound levels within permissible levels.

c. Local Ordinances

In contrast to the low level of activity on noise control at the federal and state levels, local California cities and counties have been very active in regulating and enforcing noise standards. About twenty cities have banned the use of gasoline-powered, or gasoline- and electric-powered leaf blowers, from use within their city limits (City of Palo Alto 1999a). Including the recent Los Angeles ban on use within 500 ft of residences, about 13% of Californians live in cities that ban the use of leaf blowers, and six of the ten largest California cities have ordinances that restrict or ban leaf blowers. All together, about one hundred California cities have ordinances that restrict either leaf blowers specifically or all gardening equipment generally, including the cities with bans on leaf blower use (IME 1999).

The restrictions on leaf blowers fall into four basic categories, with many cities employing a combination of approaches: time of day/day of week, noise levels, specific areas, and educational (City of Palo Alto 1999a). Time of day/day of week ordinances are the most common and are used to control when leaf blowers can be operated. Typically, hours of use are restricted to times between 7:00 a.m. and 7:00 p.m., and days of use are either Monday through Friday or Monday through Saturday, and sometimes including Sunday, with shorter hours on the weekend, based on the assumption that leaf blower noise is most offensive during the evening and night time hours, and on the weekend. There may be exceptions for homeowners doing their own yard work and for work in commercial areas. Time of day/day of week ordinances are relatively easy to enforce. A problem with these ordinances, however, is that they ignore the needs for quiet during the day of babies, young children, and their caretakers; day-sleepers; the ill; the retired; and a growing population of those who work in a home office.

Some cities regulate leaf blower use based on noise levels recorded at a specified distance from the operator. Palos Verdes Estates and Davis, for example, set the noise level at 70 dBA at 50 ft, and Newport Beach and San Diego have a 65 dBA at 50 ft restriction. Davis allows single-family homeowners to avoid the restriction if the leaf blower is operated for less than ten minutes. Palos Verdes Estates requires blowers to be tested and certified by the city. Otherwise, a noise level restriction is very difficult to enforce as the enforcement officer must be trained in the use of sound level meters, carry the meter, and record the sound level before the operator turns off the

leaf blower or moves on. These rules target the control of noise from blowers, and could protect those who are home during the day, if they could be effectively enforced.

Recognizing that leaf blowers are often perceived as most offensive when used in residential areas, many cities stipulate usage restrictions only in residential areas, or within a certain distance of residential areas. The residential use distance restrictions prohibiting the use of leaf blowers range from 100 ft, in Foster City, to 500 ft, in Los Angeles. This type of ordinance protects those who are at home and in need of quiet during the day, but does not address issues of those who work and recreate in commercial or other non-residential areas.

Cities sometimes couple area restrictions with user guidelines, such as prohibitions on blowing debris onto adjacent properties, and require operators be educated on the proper use of leaf blowers so as to minimize noise levels and environmental issues. These educational approaches are generally not oriented towards enforcement, but seek to change operator behavior. Educational approaches are often endorsed by landscapers and manufacturers, who believe that much of the discord over leaf blower usage originates with the few gardeners who use them incorrectly or inconsiderately. For example, an organization calling itself LINK, or Landscapers Involved With Neighborhoods and Kids, promotes educating operators to use their leaf blowers at half-throttle within 150 ft of homes (LINK 1999).

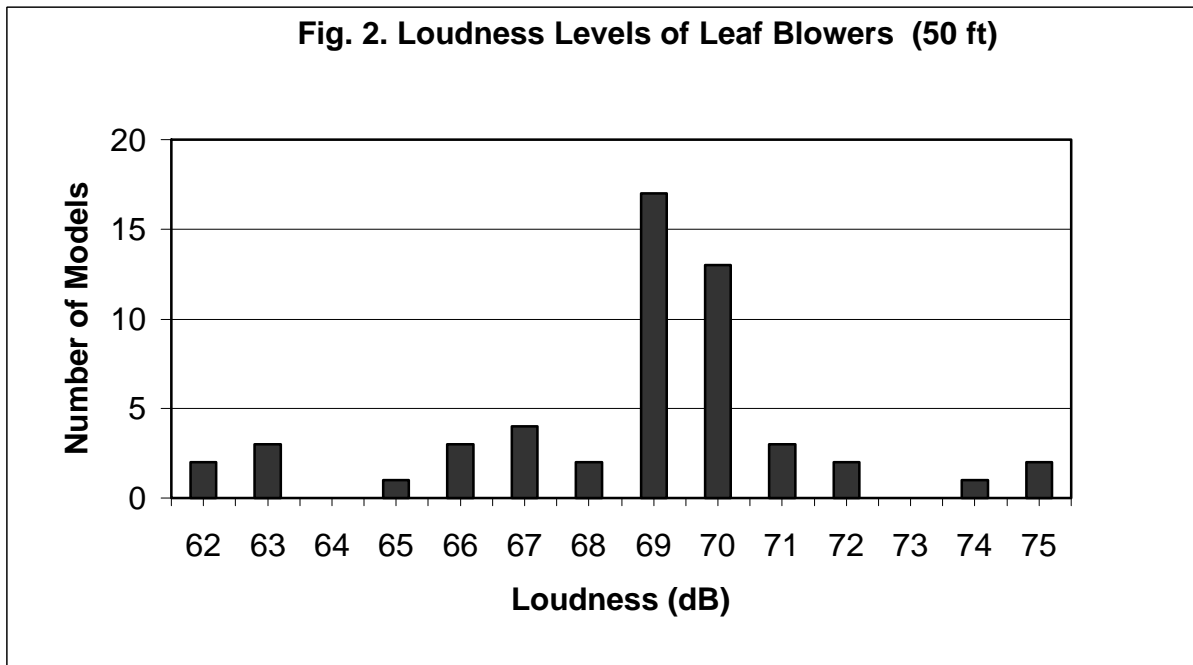
5. Noise From Leaf Blowers

In a survey of Southern Californian gardeners by a consumer products manufacturer (Anon 1999), the top two ranked attributes of a desirable leaf blower were, in order, “powerful” and “quiet.” Important features were identified as “backpack mounted,” “noise below legal limits,” and “variable speed.” When asked what they dislike about their leaf blowers, the most commonly cited problem was “noise.” Taken together, these answers suggest that loud noise from leaf blowers is not only an issue for the public, but is also a major issue of concern for the gardeners who use them, at least in Southern California. On the other hand, a major manufacturer has indicated that low noise does not even show up in their survey of desirable leaf blower features (Will 1999b), so perhaps low noise is only a concern of California gardeners.

a. Bystander noise exposure

Manufacturer-reported noise levels from leaf blowers are summarized in Appendix G; all reported noise levels are assumed to represent bystander exposure, with the receiver 50 ft from the blower, unless otherwise noted. The reported levels are based on statements in promotional literature or personal communications with manufacturers; some manufacturers did not report the sound levels of most of their models in materials available to the ARB. For backpack and hand held blowers, sound levels range from 62 dBA to 75 dBA, with more than half registering between 69 and 70 dBA (Figure 2). Bearing in mind the logarithmic decibel scale, the difference in a leaf blower at 62 dBA and one at 75 dBA, a 13 dBA range, represents more than a quadrupling of the sound pressure level, and would be perceived by a listener as two to three

times as loud. The rule of thumb is that when a sound level increases by ten dB, the subjective perception is that loudness has doubled (MPCA 1987).



There are presently two gasoline-powered backpack and three hand held electric leaf blowers that are reported by their manufacturers to be very quiet. Maruyama and Toro have the two quietest backpack blowers, and Poulan/Weedeater, Stihl, and Toro have produced the quietest hand held blowers. Echo, Inc., which sells slightly under one-third of the total number of backpack blowers, has a model rated at 65 dB, the PB-46LN. In 1996, the most popular Echo backpack leaf blower, based on sales, was the Echo PB-400E, which is also one of the noisiest at 74 dBA. By 1999, however, the quieter PB-46LN had surpassed the PB-400E in sales (Will, L., pers. com.).

b. Operator Noise Exposure

Data on noise levels at the leaf blower operator's ear are limited. The League for the Hard of Hearing (1999) publishes a fact sheet in which the noise level of a leaf blower is listed as 110 dBA. Clark (1991) reported that one model by Weedeater emitted a maximum level of 110-112 dBA and an equivalent A-weighted sound level (L_{eq}) of 103.6 dBA. This leaf blower model, however, is no longer available and these data may not be comparable to today's leaf blowers. Other than Clark's report, no other published report could be located, but unpublished data were found.

Schulze and Lucchesi (1997), in an unpublished conference presentation, reported the range and average sound pressure level from four leaf blowers. The four leaf blowers were

unidentified models from Craftsman, Weedeater, and Shop Vac.⁹ The authors reported that 3 ft from the leaf blower the sound pressure levels ranged from 80 to 96 dBA, with an average value of 88 dBA, and concluded that leaf blower noise did not violate the OSHA permissible noise exposure limit. Sound pressure levels, however, were not measured at the operator's ear, and thus usefulness of the data is limited. In addition, whether or not the OSHA noise exposure limits are violated depends on the amount of time the listener is exposed, as the action level is an eight-hour time-weighted average. At least one of the leaf blowers had an SPL above the Permissible Exposure Limit of 90; at 96 dBA, the operator would be restricted to a 3 hr, 29 minute daily exposure without hearing protection.

The Portable Power Equipment Manufacturers Association (Hall 1999) conveyed limited, blinded data to the ARB on operator exposures. With no information as to data collection methods (some pages were marked "ISO 7182"), manufacturers, models, or maximum and minimum sound levels, these data are of limited quality. Reported operator sound levels, some of which were identified as "full open throttle" or "full load," ranged from 91.5 dBA to 106 dBA.

A consultant with James, Anderson & Associates, Inc. (Hager 1999), provided ARB with data collected as a part of comprehensive noise exposure studies by the firm (Table 7). As with the PPEMA data, ARB was not given the make or models of leaf blowers tested. Sound levels were recorded in the hearing zone of groundskeepers while they were operating leaf blowers, along with the amount of time the groundskeeper operated the leaf blower in an 8-hr day. Sound levels were measured in dBA per federal OSHA requirements. As shown, duration of use ranged from 15 minutes to 7.6 hours (average 2.1 hr) during the day. Operator exposure ranged from 88.6 to 101.3 dBA. In this data set, only one of the six individuals monitored would have exceeded the protective levels, based on leaf blower use for 7.6 hrs.

⁹ARB was not able to obtain the specific models tested or actual SPLs for each model leaf blower.

**Table 7. Leaf Blower Operator Noise Exposures and Duration of Use
(Hagar 1999)**

Average SPL, dBA	Minimum SPL, dBA	Maximum SPL, dBA	Duration of Leaf Blower use (hr)
99.5	96.4	101.3	0.75
92.0	N/R	N/R	1.0
101.2	N/R	101.9	2.3
101.3	98.3	105.7	7.6
95.9	92.0	97.0	0.25
88.6	85.0	90.4	0.5

N/R = not reported

Eric Zwerling of the Rutgers Noise Technical Assistance Center, along with Les Blomberg, Executive Director of the Noise Pollution Clearinghouse, recently conducted studies of operator exposure and the sound quality of leaf blowers (Zwerling 1999). While the data are still being analyzed, preliminary results were made available to the ARB. Three backpack and one handheld leaf blowers were tested using ANSI B175.2-1996 test method for the bystander exposure and using personal dosimetry for operator exposures (Table 8). All equipment used for tests was certified and calibrated. Zwerling and Blomberg used a 3 dB exchange rate for the operator dosimetry, as recommended by NIOSH, but noted that the data can be reasonably compared to data derived with the OSHA mandated 5 dB exchange rate because of the steady sound emissions of the leaf blowers. Because of this, the OSHA permissible exposure durations, which are based on the 5 dB exchange rate, are noted in Table 8. The difference is most important for the worker, who is allowed, for example, a 1 hr exposure (unprotected) at 105 dB by OSHA, but only 4 min, 43 sec exposure (unprotected) under the more conservative NIOSH-recommended 3 dB exchange rate.

**Table 8. Sound Levels of Some Leaf Blowers,
E. Zwerling & L. Blomberg**

Make/Model	Type	Condition	Bystander Exposure, dB	Operator Exposure,* Leq	OSHA Permissible Exposure Duration (approx)
Stihl BR 400	Backpack	New	73.89	105.7, 105.8, 105.5	52 min
Stihl BR 400	Backpack	Used	74.5, 74.63	103.3, 102.9	1 hr, 19 min
Kioritz DM9	Backpack	Used	76.0	102.0	1 hr, 31 min
Stihl BR 75	Handheld	New	68.4	98.4, 97.9	2 hr, 38 min

*Samples ranged from 5-10 minutes; each reported value is a distinct sample. The microphone was attached to the cap above the operator's ear.

Finally, the *Echo Power Blower Operator's Manual* advises operators to wear hearing protection whenever the unit is used. The user is instructed that "OSHA requires the use of hearing protection if this unit is used 2 hours per day or more." This statement indicates that the operator may be exposed to an SPL of 100 dBA or more during use.

6. Use of Hearing Protectors and Other Personal Protection Gear

When this study was initiated, there were no studies found that documented the incidence of personal protective equipment usage among operators of leaf blowers. Hearing protectors are widely available, and some manufacturers provide an inexpensive foam ear plug set with the purchase. More expensive custom molded ear plugs and ear muffs provide better protection than the moldable foam ear plugs, but again no data were available on usage. Two studies did examine the incidence of usage of hearing protection in other industries. In one study of 524 industrial workers, although 80.5% were provided with hearing protection devices, only 5.1% wore them regularly (Maisarah & Said 1993). In another study of metal assembly workers who worked in a plant where the average noise level was 89 dBA, only 39% of the men reported wearing hearing protection always or almost always (Talbot et al. 1990).

By the end of September 1999, however, three studies were delivered to the ARB that included information on the use of hearing protection by leaf blower operators. Two of the studies consisted of direct observations of operators; the third was a survey that asked people who hire gardeners to recall the use of personal protection gear by their gardeners. Following are summaries of each of the studies.

a. Zero Air Pollution Study (1999)

The goal of this study was to “observe 100 yard maintenance workers to determine the percentage of workers who followed the safety instruction while operating gas powered leaf blowers.” Workers were observed from August to October, 1997 in the western portions of the City of Los Angeles, including the San Fernando Valley. Of 100 leaf blower operators observed, none wore hearing protection, one (1%) wore breathing protection (dust mask), and 22 (22%) wore eye protection of some kind. Of the workers observed, 27 (27%) were interviewed; seven of those claimed hearing impairment as a result of using leaf blowers and two claimed to have breathing problems which they attributed to using leaf blowers. Ten of those interviewed (37%) said they were aware of manufacturers’ safety instruction but did not feel it was necessary to follow the instructions. The remaining 17 (63%) were unaware of manufacturers’ safety instructions.

b. Citizens for a Quieter Sacramento Study (1999b)

The goal of this study, as for the Zero Air Pollution study, was to determine the percentage of leaf blower operators who wear personal protective equipment when using blowers. A total of 64 observations were made during August and September 1999; 12 in Sacramento, 47 in the Los Angeles area, and 5 in other cities. Most (88%) of the observations were of blowers being used on residential properties. Of the 64 observations, there were four (6%) individuals observed wearing hearing protection, 41 (64%) were not wearing hearing protection, and in the remaining cases the observer could not tell whether or not hearing protection was used. Eye protection use was lower, only 3 (5%) operators were wearing glasses, but breathing protection incidence was higher, seven (11%) wore dusk masks. Observations were also made of the incidence of personal protection of other workers, when the crew was larger than one person. Of the 38 observations of other workers, two (5%) were using hearing protection, two (5%) were using eye protection, and two (5%) wore dusk masks.

c. Survey99 Report (Wolfberg 1999)

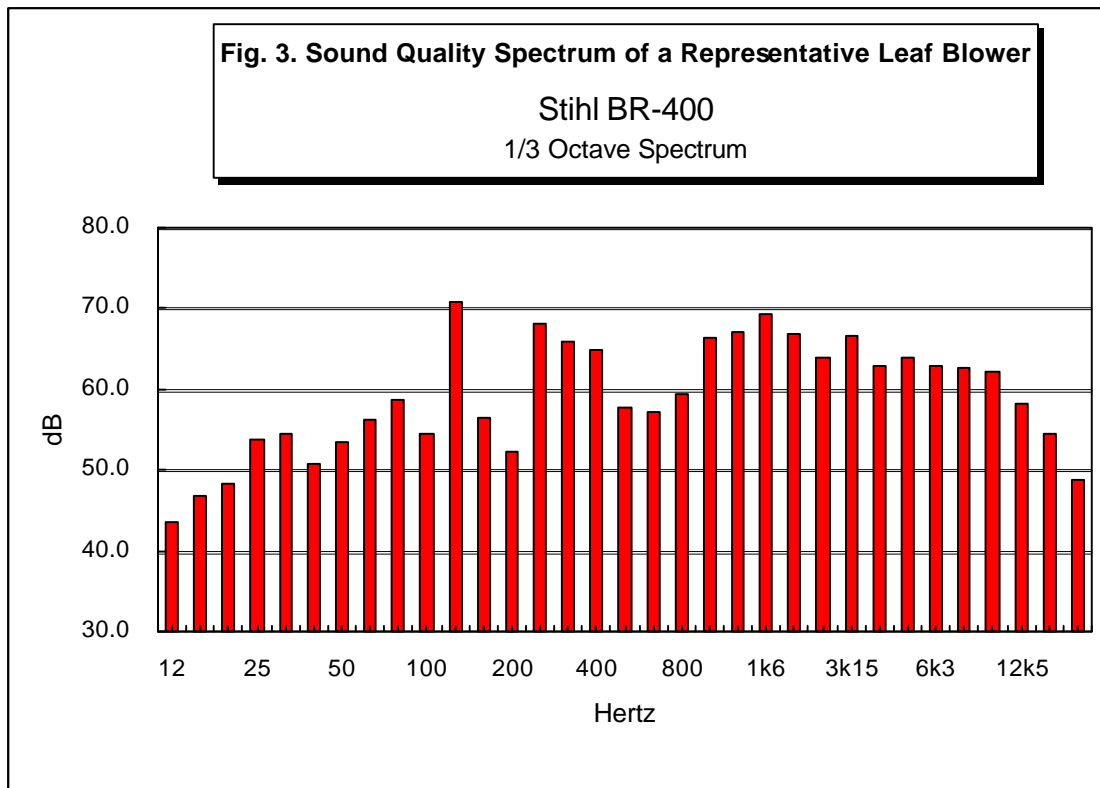
The third study provided to the ARB was authored by Mrs. Diane Wolfberg, Chair of the Zero Air Pollution Education Committee and Mr. George Wolfberg. Although the authors are members of Zero Air Pollution, the study was distinct from the 1997 study summarized above. The goal of this study was to determine “opinions and perceptions of California residents regarding the use of leaf blowers . . . for residential landscape maintenance.” Mainly residents of Los Angeles were surveyed. Survey takers asked residents a variety of questions related to the use of leaf blowers on residential properties; in addition, respondents were asked about the incidence of personal protective equipment use by leaf blower operators. Because the data are based on recall rather than direct observations, their usefulness is limited. Data are summarized here, nevertheless, for completeness.

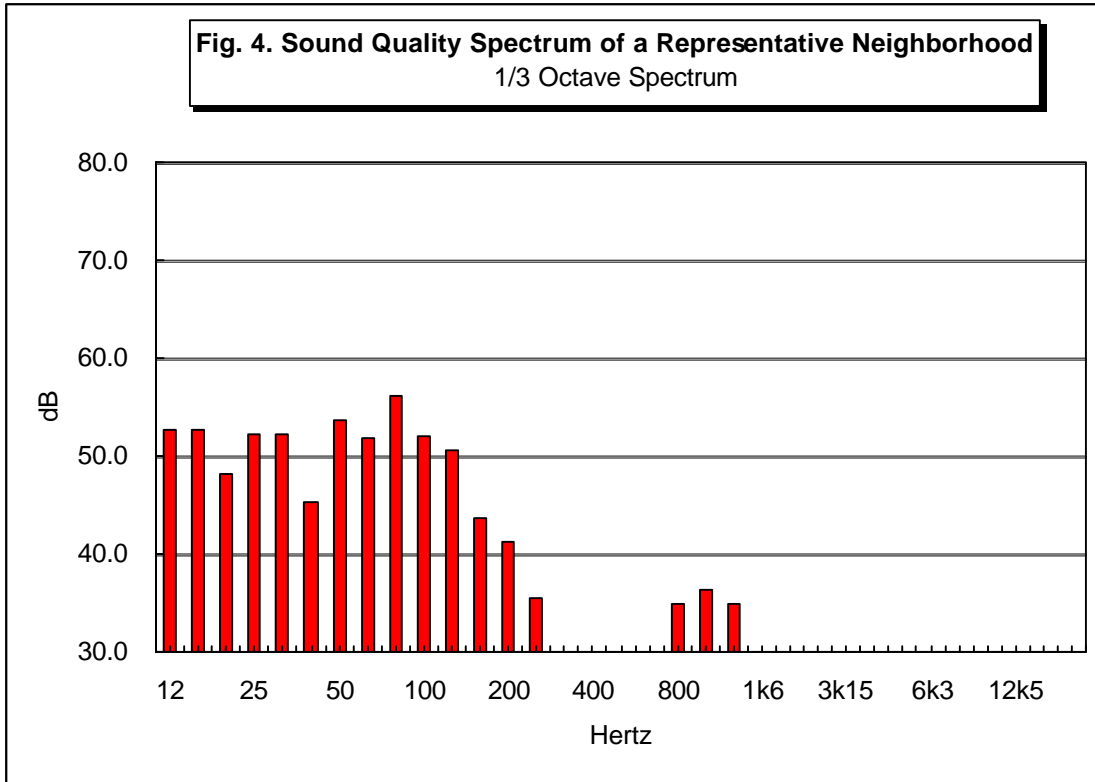
Of respondents who have had leaf blowers used on their properties in the previous 12 months, 53% reported that leaf blower operators never use a face mask, 62% never use eye

protection, and 69% never wear hearing protection. On the positive side, however, respondents reported that 13% of operators always wear a face mask, 19% always wear eye protection, and 9% always wear hearing protection. These percentages are much higher than found in the two direct observation studies.

7. Sound Quality

As discussed earlier, the perceived loudness of noise is dependent on both sound pressure level and frequency, which is termed the sound quality. One study examined sound quality from leaf blowers (Zwerling 1999). While this study is unpublished and data are still being analyzed, the authors have made data and preliminary findings available to the ARB. Figures 3 and 4 illustrate sample sound spectra from a leaf blower and ambient sound, respectively. As shown in Figure 3, the sound spectrum of the gasoline-powered leaf blower contains a significant amount of high intensity and high frequency emissions. In a quiet residential neighborhood (Figure 4), there are few or no natural sources of sound at these high frequencies. Therefore, the sound emissions of gasoline-powered leaf blowers are not only more intense than the ambient sound levels, their spectra are noticeably different than the spectrum for ambient sounds. The high frequency emissions are, therefore, not masked by other sounds and are more noticeable, perhaps accounting for the high level of annoyance reported by bystanders. These data and their implications for annoyance should be confirmed by further study.





8. Summary

Noise is the general term for any loud, unmusical, disagreeable, or unwanted sound, which has the potential of causing hearing loss and other adverse health impacts. While millions of Californians are likely exposed to noise from leaf blowers as bystanders, given the ubiquity of their use and the increasing density of California cities and towns, there is presently no way of knowing for certain how many are actually exposed, because of the lack of studies. In contrast, it is likely that at least 60,000 lawn and garden workers are daily exposed to the noise from leaf blowers. Many gardeners and landscapers in southern California are aware that noise is an issue and apparently would prefer quieter leaf blowers. Purchases of quieter leaf blowers, based on manufacturer data, are increasing. While little data exist on the noise dose received on an 8-hr time-weighted-average by operators of leaf blowers, data indicate that some operators may be exposed above the OSHA permissible exposure limit. It is unlikely that more than 10% of leaf blower operators, and probably a much lower percentage, regularly wear hearing protective gear, thus exposing them to an increased risk of hearing loss. The sound quality of gasoline-powered leaf blowers may account for the high level of annoyance reported by bystanders.

III. REVIEW OF HEALTH EFFECTS

Leaf blower noise, exhaust and fugitive dust emissions, as discussed in previous sections of this report, are health concerns. The goal of this section is to present information on health effects of identified hazards from leaf blowers; this section does not present exposure information or data tying identified hazards to specific health effects in leaf blower operators or bystanders. The following discussion addresses the health effects of particulate matter, carbon monoxide, unburned fuel, and noise. Particulate matter, carbon monoxide, and unburned fuel are components of exhaust emissions; particulate matter is also the major constituent of fugitive dust. Ozone is a pollutant that is formed in the atmosphere through chemical reactions of hydrocarbons (unburned fuel) and nitrogen oxides in the presence of ultraviolet light. Although not directly emitted, ozone is a pollutant of concern because leaf blowers emit hydrocarbons, which react to form ozone. The health effects of nitrogen oxides are not discussed as these emissions from leaf blowers are relatively low, and any health effects would be negligible.

National Ambient Air Quality Standards have been set by the federal government to protect public health and welfare. In addition, California has State ambient air quality standards. These standards include a margin of safety to protect the population from adverse effects of chronic pollutant exposure. The National Ambient Air Quality Standards and California standards are intended to protect certain sensitive and probable risk groups of the general population (Appendix C).

A. Particulate Matter

Fugitive dust is not a single pollutant, but rather is a mixture of many subclasses of pollutants, collectively termed particulate matter (PM), each containing many different chemical species (U.S. EPA 1996). Particles of 10 μm and smaller are inhalable and able to deposit and remain on airway surfaces. The smaller particles (2.5 μm or less) are able to penetrate deep into the lungs and move into intercellular spaces. The respirable particles owe their negative health impacts, in part, to their long residence time in the lung, which allows chemicals time to interact with body tissues. ARB staff could not locate data on the specific chemical and physical make-up of leaf blower dust, although some data are available on paved road dust, thus only generic effects from the respirable fraction (particles 10 μm and smaller) are addressed.

Many epidemiological studies have shown statistically significant associations of ambient PM levels with a variety of negative human health endpoints, including mortality, hospital admissions, respiratory symptoms and illness measured in community surveys, and changes in pulmonary mechanical function. Associations of both short-term, usually days, and long-term, usually years, PM exposure with most of these endpoints have been consistently observed. Thus, the public health community has a great deal of confidence that PM is significantly associated with negative health outcomes, based on the findings of many studies.

There remains uncertainty, however, regarding the magnitude and variability of risk estimates for PM. Additional areas of uncertainty include the ability to attribute observed health effects to specific PM constituents, the time intervals over which PM health effects are manifested, the extent to which findings in one location can be generalized to other locations, and the nature and magnitude of the overall public health risk imposed by ambient PM exposure. While the existing epidemiology data provide support for the associations mentioned above, understanding of underlying biologic mechanisms is incomplete (U.S. EPA 1996).

B. Carbon Monoxide

A component of exhaust, carbon monoxide (CO) is a colorless, tasteless, odorless, and nonirritating gas that is a product of incomplete combustion of carbon-containing fuels. With exposure to CO, subtle health effects can begin to occur, and exposure to very high levels can result in death. The public health significance of CO in the air largely results from CO being absorbed readily from the lungs into the bloodstream, forming a slowly reversible complex with hemoglobin, known as carboxyhemoglobin. The presence of significant levels of carboxyhemoglobin in the blood reduces availability of oxygen to body tissues (U.S. EPA 1999b).

Symptoms of acute CO poisoning cover a wide range depending on severity of exposure, from headache, dizziness, weakness, and nausea, to vomiting, disorientation, confusion, collapse, coma, and at very high concentrations, death. At lower doses, central nervous system effects, such as decreases in hand-eye coordination and in attention or vigilance in healthy individuals, have been noted (Horvath et al. 1971, Fodor and Winneki 1972, Putz et al. 1976, 1979, as cited in U.S. EPA 1999b). These neurological effects can develop up to three weeks after exposure and can be especially serious in children.

National Ambient Air Quality Standards have been set to protect public health and welfare and are intended to protect certain sensitive and probable risk groups of the general population. The sensitive and probable risk groups for CO include anemics, the elderly, pregnant women, fetuses, young infants, and those suffering from certain blood, cardiovascular, or respiratory diseases. People currently thought to be at greatest risk from exposure to ambient CO levels are those with ischemic heart disease who have stable exercise-induced angina pectoris (cardiac chest pain) (ARB 1992, U.S. EPA 1999b). In one study, high short-term exposures to CO were found in people operating small gas-powered garden equipment (ARB 1992).

C. Unburned Fuel

Some toxic compounds are present in gasoline and are emitted to the air when gasoline evaporates or passes through the engine as unburned fuel (ARB 1997). Benzene, for example, is a component of gasoline. Benzene is a human carcinogen and central nervous system depressant. The major sources of benzene emissions in the atmosphere are from both unburned and burned gasoline. The amount of benzene in gasoline has been reduced in recent years through the

mandated use of California Reformulated Gasoline (ARB undated fact sheet¹⁰). Other toxic compounds that are emitted from vehicle exhaust include formaldehyde, acetaldehyde, and 1,3-butadiene. Acetaldehyde is a probable human carcinogen (Group B2) and acute exposures lead to eye, skin, and respiratory tract irritation. 1,3-Butadiene is classified as a probable human carcinogen, is mildly irritating to the eyes and mucous membranes, and can cause neurological effects at very high levels. Formaldehyde is highly irritating to the eyes and respiratory tract and can induce or exacerbate asthma. It is classified as a probable human carcinogen (Group B1).

D. Ozone

Ozone is a colorless, odorless gas and is the chief component of urban smog. It is by far the state's most persistent and widespread air quality problem. Ozone is formed from the chemical reactions of hydrocarbons and nitrogen dioxide in the presence of sunlight. Leaf blowers emit substantial quantities of hydrocarbons, primarily from unburned fuel, which can react to form ozone. Ozone is a strong irritant and short-term exposures over an hour or two can cause constriction of the airways, coughing, sore throat, and shortness of breath. Ozone exposure may aggravate or worsen existing respiratory diseases, such as emphysema, bronchitis, and asthma. Chronic exposure to ozone can damage deep portions of the lung even after symptoms, such as coughing, disappear. Over time, permanent damage can occur in the lung, leading to reduced lung capacity.

E. Noise

The literature on health effects of noise is extensive. Exposure of adults to excessive noise results in noise-induced hearing loss that shows a dose-response relationship between its incidence, the intensity of exposure, and duration of exposure. Noise-induced stimulation of the autonomic nervous system reportedly results in high blood pressure and cardiovascular disease (AAP 1997). In addition there are psychological effects. The following subsections will first discuss noise-induced hearing loss and physiological stress-related effects. Adverse impacts on sleep and communication, effects of performance and behavior, annoyance, and effects on wildlife and farm animals are also described. These are not perfect divisions between discreet affects: nighttime noises can cause sleep-deprivation, for example, which can lead to stress, elevated blood pressure, and behavioral changes, especially if the effect is repeated and uncontrollable. But first, before discussing effects, the reader should have an understanding of how the ear functions.

¹⁰<http://arbis.arb.ca.gov/cbg/pub/cbgbkgr1.htm>

1. Hearing and the Ear

A detailed discussion of the ear's anatomy and the mechanism by which we hear is beyond the scope of this report, but a basic level of understanding is necessary so that later discussions of damage to hearing will be better understood. For further information, the reader is referred to any basic acoustics or biology text.

The ears are paired sensory organs that serve two functions, to detect sound and to maintain equilibrium; only sound detection will be addressed in this report. The ears are composed of the external ear, middle ear, and the inner ear. With the assistance of the external ear in collecting and focusing sound, vibrations are transmitted to the middle ear via the ear canal and the eardrum. The vibrations of the eardrum are transmitted by the bones of the middle ear to the fluid-filled sensory organ of the inner ear, the cochlea. As the fluid of the inner ear vibrates, the hair cells located in the cochlea bend, stimulating sensory receptors, and leading to nerve impulses being transmitted to the brain via the auditory nerve. The greater the hair cell displacement, the more sensory receptors and neurons are stimulated, resulting in the perception of an increase in sound intensity.

Hearing loss can result from damage or growths in any portion of the ear and the part of the brain that processes the nerve impulses. Damage to the outer and middle ear result in conductive hearing loss, in which case the vibrations can still be perceived and processed if they can be transmitted by another means to the inner ear. Damage to the inner ear and auditory nerve result in sensorineural hearing loss. Sensorineural hearing loss can be temporary, if the body's mechanisms can repair the damage, but cumulative inner ear damage will result in permanent hearing loss. Aging, diseases, certain medications, and noise cause the majority of sensorineural hearing loss, which is not reversible by surgery or medication, and is only partially restored by hearing aids.

2. Noise-Induced Hearing Loss

Roughly 25% of all Americans aged 65 and older suffer from hearing loss. Contrary to common belief, hearing loss is not part of the natural aging process, but is caused by preventable, noise-induced wear and tear on the auditory system (Clark & Bohne 1999). Noise-induced hearing loss develops gradually over years and results from damage to the inner ear. Sensory cells within the cochlea are killed by exposure to excessive noise. These cells do not regenerate but are replaced with scar tissue. After weeks to years of excessive noise, the damage progresses to the point where hearing loss occurs in the high-frequency range and is detectable audiometrically; speech comprehension is not usually affected and so at this level hearing loss is goes unnoticed by the individual. Eventually, with continued exposure, the hearing loss spreads to the lower pitches necessary to understand speech. At this point, the impairment has proceeded to the level of a handicap and is quite noticeable. The damage is not reversible and is only poorly compensated for by hearing aids.

There is considerable variability among individuals in susceptibility to hearing loss. Based on major field studies conducted in the late 1960s and early 1970s, the U.S. EPA suggested that a 24-hour equivalent sound level of 70 dBA would protect 96% of the population, with a slight margin of safety, from a hearing loss of less than five dBA at 4000 Hz (U.S. EPA 1974). This 24-hour, year-round equivalent sound level is based on a forty-year work-place noise level exposure (250 working days per year) of 73 dBA for eight hours and 60 dBA for the remaining 16 hours.

The National Institute for Occupational Safety and Health reviewed the recommended occupational noise standard recently (NIOSH 1996) and reaffirmed its recommended exposure limit of 85 dBA for occupational noise exposure. The report concluded that the excess risk of developing occupational noise-induced hearing loss for a 40-hr lifetime exposure at 85 dBA is 8%. In comparison, the OSHA regulation [29 CFR 1910.95] allowing a 90 dBA permissible exposure limit results in a 25% excess risk of developing hearing loss. The OSHA regulation, however, has not been changed to reflect the recommendation of the National Institute for Occupational Safety and Health.

NIOSH also recommended changing the exchange rate, which is the increment of decibels that requires the halving or doubling of exposure time, from the OSHA mandated 5 dBA to 3 dBA. This would mean that if the worker was permitted to be exposed to 85 dBA unprotected for 8 hr, then a noise exposure level of 88 dBA would be limited to 4 hr per day. The 3-dBA exchange rate is supported by acoustics theory, and by national and international consensus. OSHA, however, continues to mandate a 5 dBA exchange rate in its regulations. In addition, the American Academy of Pediatrics (1997) has asked the National Institute of Occupational Safety and Health to conduct research on exposure of the fetus to noise during pregnancy and recommends that the OSHA consider effects on the fetus when setting occupational noise standards.

3. Non-Auditory Physiological Response

In addition to hearing loss, other physiologic and psychological responses resulting from noise have been noted and are termed non-auditory effects. Noise is assumed to act as a non-specific biological stressor, eliciting a "fight or flight" response that prepares the body for action (Suter 1991). Research has focused on effects of noise on blood pressure and changes in blood chemistry indicative of stress. Despite decades of research, however, the data on effects are inconclusive. While many studies have shown a positive correlation between hearing loss, as a surrogate for noise exposure, and high blood pressure, others have shown no correlation (Suter 1991; Kryter 1994). The National Institutes of Occupational Safety and Health (1996) has called for further research to define a dose-response relationship between noise and non-auditory effects, such as hypertension and psychological stress.

4. Interference with Communication

The inability to communicate can degrade the quality of living directly, by disturbing social and work-related activities, and indirectly, by causing annoyance and stress. The U.S. EPA (1974), in developing its environmental noise levels, determined that prolonged interference with speech was inconsistent with public health and welfare. Noise that interferes with speech can cause effects ranging from slight irritation to a serious safety hazard (Suter 1991), and has been shown to reduce academic performance in children in noisy schools, as reviewed by Kryter (1994). The U.S. EPA, therefore, developed recommended noise levels that are aimed at preventing interference with speech and reduced academic performance. An outdoor yearly average day-night sound level of 55 dBA permits adequate speech communication at about 9-10 ft, and also assures that outdoor noise levels will not cause indoor levels to exceed the recommended level of 45 dBA.

5. Interference with Sleep

It is common experience that sound rouses sleepers. Noise that occurs when one is trying to sleep not only results in repeated awakenings and an inadequate amount of sleep, but is also annoying and can increase stress. Noise that is below the level that awakens, however, also changes the sleep cycle, reduces the amount of “rapid eye movement” sleep, increases body movements, causes cardiovascular responses, and can cause mood changes and performance decreases the next day (Suter 1991). The U.S. EPA recommended an indoor average yearly day-night level of 45 dBA, which translates into a night time average sound level of 35 dBA, to protect most people from sleep disturbance.

An average sound level, however, does not adequately account for peak sound events that can awaken and disturb sleep. Continuous noise has a significantly smaller sleep disturbance effect than intermittent noise. Research has found that subjects in sleep laboratory experiments will gradually reduce the number of awakenings throughout the night in response to noise, but other physiological changes, including a momentary increase in heart rate, indicative of arousal do not change. The question is whether physiological arousal, short of awakening, has a negative health effect. While study results are inconclusive on this issue, it is clear that noise above a certain level, about 55 dBA L_{eq} according to Kryter (1994), will awaken people, even after long periods of repeated exposures. Repeated awakenings reduce feelings of restedness and cause feelings of annoyance, leading to stress responses and associated health disorders.

6. Effects on Performance and Behavior

The working hypothesis in this area has been that noise can cause adverse effects on task performance and behavior at work, in both occupational and non-occupational settings. Results of studies, however, have not always been as predicted. Sometimes noise actually improves performance, and sometimes there are no measurable differences in performance between noisy and quiet conditions (Suter 1991). Kryter (1994) concluded that masking by noise of other

auditory signals is the only inherent auditory variable responsible for observed effects of noise on mental and psychomotor tasks.

The effect of noise on “helping behavior” in the presence and absence of noise is more clear. Mathews and Canon (1975) tested the hypothesis that high noise levels may lead to inattention to the social cues that structure and guide interpersonal behavior. In a laboratory study in which subjects did not know they were being studied, they found that fewer persons were willing to help someone who had “accidentally” dropped materials when background noise levels were 85 dB than when they were 65 dB or 48 dB. In a subsequent field study, similar results were demonstrated with background noise from a lawn mower. Initially, subjects were tested as to their willingness to help a man who had dropped books and papers while walking from his car to a house; in this test, helping behavior was low both in ambient (50 dB) and high (87 dB) noise conditions. When the test was repeated with a cast on the arm of the man who dropped the books, helping behavior was high under ambient noise (80%) and low under high noise (15%) conditions. These and other studies lead to the conclusion (Suter 1991) that even moderate noise levels can increase anxiety, decrease the incidence of helping behavior, and increase the likelihood of hostile behavior.

7. Annoyance and Community Response

Annoyance is a response to noise that has been extensively studied for years. Various U.S. government agencies began investigating the relationships between aircraft noise and its effect on people in the early 1950's. Annoyance is measured as an individual response to survey questions on various environmental factors, including as noise (Suter 1991). The consequences of noise-induced annoyance are privately held dissatisfaction, publicly expressed complaints, and possibly adverse health effects. Fidell et al. (1991) reviewed and synthesized the relationship between transportation noise and the prevalence of annoyance in communities based on over 30 studies. The relationship is an exponentially increasing function, with less than 10% of respondents reporting themselves to be highly annoyed at noises under an average day-night sound level of 56 dB. Fifty percent responded they were highly annoyed at sound levels approaching 79 dB, and nearly every person was highly annoyed at sound levels above 90 dB.

Suter (1991) concluded that throughout decades of study, community annoyance has been positively correlated with noise exposure level, and that although variables such as ambient noise level, time of day, time of year, location, and socioeconomic status are important, the most important variable is the attitude of the affected residents. Kryter (1994) further elaborates that interference by noise, and the associated annoyance, depends on the activity of an individual when the noise event occurs, and the intensity and duration of the noise. People have different beliefs about noise, which are also important. Those most annoyed share similar beliefs that the noise may be dangerous, is probably preventable, are aware that non-auditory effects are associated with the noise source, state they are sensitive to noise, and believe that the economic benefit represented by the source is not important for the community (Fields 1990).

8. Effects of Noise on Animals

Kryter (1994) reviewed studies on the effects of noise both on wildlife and farm animals. None of these studies examine noise-induced hearing loss, but rather looked at effects of noise on litter size, prevalence of wildlife, and milk production. Most of the studies were conducted to examine the effects of airport noise, including noise from landings and takeoffs and sonic booms near commercial and military airports, and noise from construction activities during laying of pipelines across wilderness areas. Negative impacts on wildlife and farm animals, due to noise, were not supported by the studies. In the airport studies, the absence of human activities in the areas surrounding the high noise exposure zones appeared to be more important than noise, resulting in abundant wildlife. Farm animals exposed to frequent sonic booms showed little or no negative effects, again using such criteria as reproduction, milk production, and growth rate. No study, however, has examined the effects of leaf blower noise on animals.

IV. POTENTIAL HEALTH AND ENVIRONMENTAL IMPACTS OF LEAF BLOWERS

This section of the report synthesizes the information presented in the two previous sections, hazard identification and health effects, and characterizes the potential health impacts of leaf blowers on operators and bystanders. As discussed previously, there are no studies of the health impacts of leaf blowers, and essential information is missing that prevents ARB from preparing a quantitative risk characterization. There is, for example, no information on the quantitative relationship between exposure to hazards from leaf blowers and adverse effects. The size of the exposed population and the magnitude and duration of exposures are also unknown. The goal of this section, then, is to point the discussion in directions dictated by the findings of the two previous sections, and to raise questions about the nature of health impacts that may be experienced by those exposed to the exhaust emissions, fugitive dust, and noise from leaf blowers in both occupational and non-occupational settings.

Leaf-blower operators and bystanders have two different types of exposures to exhaust and fugitive dust emissions: exposures that occur on a regional basis and exposures that occur when one is within a short distance of the leaf blower. Regional exposures are those exposures to air pollution that occur as a result of leaf blowers contributing to the basin-wide inventory of ozone, carbon monoxide, particulates, and toxic air pollutants. While leaf blowers contribute a small percentage to the basin-wide air pollution, they are nonetheless a source of air pollution that can be, and is, controlled through exhaust emission standards.

The second type of exposure is of greater concern. Lawn and landscape contractors, homeowners using a leaf blower, and those in the immediate vicinity of a leaf blower during and shortly after operation, are exposed to potentially high exhaust, fugitive dust, and noise emissions from leaf blowers on a routine basis. While ARB staff have not located conclusive data on how often, how long, and at what concentrations exposures occur, the ARB off-road model assumes that each commercial leaf blower is used for 275 hr/yr, and each residential leaf blower is used for 10 hr/yr. These figures do not tell us, however, how long each leaf blower operator is exposed.

Because of the highly speculative nature of the data on operator and bystander exposure time, staff have been unable to develop estimates of the quantities of chemicals individuals could be exposed to per amount of time. Instead, impacts are presented somewhat qualitatively, with recommendations for appropriate personal protection or controls from hazards that staff have found to be significant.

A. The Leaf Blower Operator

In this section, data are presented that apply to the commercial leaf blower operator, a person who regularly uses the leaf blower in the course of a landscaping or gardening job. Staff assume that a commercial leaf blower operator will use equipment with a higher horsepower than a residential, or homeowner, operator.

1. Exhaust Emissions

The typical leaf blower owned and operated by commercial lawn and landscape contractors, with an average horsepower of three and a load factor of 50% based on the ARB off-road emissions model, produces the estimated average emissions for a one hour usage as shown in Table 9. Actual operator usage apparently ranges from 15 minutes to a full work day (Table 7). To illustrate the magnitude of potential exhaust and fugitive dust emissions, staff have compared the estimated leaf blower emissions to the emissions from one hour of operation of two different types of light duty vehicles, one new and one old. A comparison of emissions from leaf blowers to vehicle engines is relevant to provide some sense of the relative quantities of pollutants.

**Table 9. Commercial Leaf Blower Emissions Compared to Light Duty Vehicle Emissions
3 hp average, 50% load factor, 1999 emissions data**

	Exhaust Emissions, g/hr	Exhaust Emissions, new light duty vehicle,* g/hr	Exhaust Emissions, older light duty vehicle,** g/hr
Hydrocarbons	199.26	0.39	201.9
Carbon Monoxide	423.53	15.97	1310
Particulate Matter	6.43	0.13	0.78
Fugitive Dust	48.6-1031	N/A	N/A

*New light duty vehicle represents vehicles one year old, 1999 or 2000 model year, driven for one hour at 30 mph.

**Older light duty vehicle represents vehicles 1975 model year and older, pre-catalytic vehicle, driven for one hour at 30 mph.

For CO (Table 9), the estimated 423 g emitted by one hour of leaf blower use is approximately 26 times the amount emitted by a new vehicle, but approximately one-third of the CO emissions of an older vehicle. While not implying that the operator will inhale this amount of CO, these data do suggest concern about the relatively large amount of CO emitted directly into the air space surrounding the operator. For particulate matter exhaust emissions, the leaf blower emits eight to 49 times the particulates of a light duty vehicle, primarily because of the large amount of unburned fuel directly released by the two-stroke engine.

Another way to visualize the data is to compare emissions for a given amount of leaf blower operation to miles traveled by car. The Air Resources Board regularly publishes such emissions benchmarks. Thus, for the average 1999 leaf blower and car data presented in Table 9, we calculate that hydrocarbon emissions from one-half hour of leaf blower operation equal about 7,700 miles of driving, at 30 miles per hour average speed. The carbon monoxide emission benchmark is significantly different. For carbon monoxide, one-half hour of leaf blower usage

(Table 9) would be equivalent to about 440 miles of automobile travel at 30 miles per hour average speed.

Exposure data are necessary to determine potential health impacts of the pollutants. Since few exposure data exist, staff have developed a model that estimates potential exposures based on 10 minutes of leaf blower operation and compares those emissions to the amount of still air in which emissions would need to be mixed to avoid a transitory, local exceedance of the ambient air quality standards, which are health-based standards. Details of the model and results are presented in Appendix J.

The exposure scenario suggests that 10 minutes of leaf blower usage could expose the operator to a significant, potentially harmful dose of CO, assuming a worst case exposure, in which there is no dispersion of pollutants out of the immediate area. In this case, the operator could be exposed to potentially harmful amounts of carbon monoxide. The best case would be that all emissions and fugitive dust from the leaf blower would be blown out of the immediate area, resulting in little or no exposure to the operator. Actual exposures would most likely be somewhere in between these two assumptions and would vary greatly with weather conditions, wind, use or nonuse of protective gear, walking speed of the operator, and type of machine used. In addition, for carbon monoxide exposures, whether or not the operator has heart disease would be important in determining potential risk. Exposure studies would need to be conducted to obtain more reliable estimates of operator exposure, and staff recommend further research.

On December 27, 1999, ARB was mailed a redacted copy of a 1995 report on operator exposure levels for several chemicals that are present in handheld gasoline-powered equipment exhaust emissions. The report summarized breathing zone measurements during operation of chain saws, a string trimmer, and a leaf blower, but all data pertaining to equipment other than the leaf blower was blacked-out. The study and its limitations are discussed in some detail in Appendix H, but it is relevant to note here that ARB has received two measurements from one leaf blower of breathing zone concentrations of carbon monoxide, toluene, benzene, 1,3-butadiene, acetaldehyde, and formaldehyde. As reported in the study, concentrations of carbon monoxide, benzene, and 1,3-butadiene were high enough as to reinforce concern over operator exposures for the commercial leaf blower operator.

2. Fugitive Dust

Estimated fugitive dust emissions cannot be compared to light duty vehicle exhaust. The worst case exposure scenario, however, suggests that ten minutes of use of a commercial blower would expose the operator to significant amounts of PM (Appendix J). While leaf blower operators would not be expected to spend significant amounts of time within such a particulate cloud, the day-in-day-out exposure to this much PM₁₀ could result in serious, chronic health consequences in the long-term. Short-term exposures of one to two days to high levels of PM can lead to coughing and minor throat irritation. Long-term exposures have shown statistically significant associations of ambient PM levels with a variety of negative human health outcomes, as discussed previously. These data strongly suggest that professional leaf blower operators, and

those regularly working within the envelope described above, should wear a face mask effective at filtering PM from the air, and further research is warranted.

3. Noise

The potential health impacts of leaf blowers on workers from noise center on noise-induced hearing loss. Two factors contribute to an increased risk of hearing loss in typical career gardeners: the high sound pressure levels emitted by leaf blowers at the level of the operator's ear, and the infrequent use of hearing protection. While we cannot estimate the percentage of workers who will experience noise-induced hearing loss without additional data, these two factors are likely to be responsible for hearing loss in an unknown percentage of workers, although individuals may not notice any hearing loss until many years have passed. In order to reduce potential hearing loss, employers should ensure that employees use hearing protection. State and local health and enforcement agencies should promote hearing protection in campaigns targeted at professional landscapers and gardeners. Hearing loss is gradual, and may become obvious only years after the exposure has ceased.

B. The Public-at-Large

Those who are not working in landscaping and gardening fall into two categories: homeowners doing their own gardening and bystanders. Homeowners who chose to use a leaf blower likely experience relatively low-level exposures which they control. Bystanders may experience low or high exposures, depending on the nature of the exposure. Bystanders, however, almost never have chosen to be exposed to the exhaust, dust, and noise emissions of the leaf blower. Thus their attitude toward the leaf blower is likely very negative and they may be highly annoyed by the exposure.

In addition, staff have received letters, and read testimonials on Internet web-sites, concerning acute symptoms, such as asthma and allergies, exhibited by sensitive individuals to relatively limited exposures. These symptoms have not been evaluated in this report as they are anecdotal and unable to be substantiated. The recent study by Miguel et al. (1999), however, lends support to those who claim that exposure to leaf blower-generated dust causes allergic and asthmatic symptoms. It is also important to acknowledge that some individuals may be very sensitive to the emissions from leaf blowers and unable to tolerate exposures that do not seem to bother other individuals.

In addition to homeowner-leaf blower operators and bystanders who are in the vicinity of leaf blower operation, everyone is exposed to a small degree to air pollution that results from exhaust and dust emissions from leaf blowers. This report does not quantify those exposures, but the ARB does regulate exhaust emissions from leaf blowers, as from most other sources of air pollution. All sources of air pollution need to be reduced in order that Californians can breathe clean air.

1. Exhaust Emissions

The typical leaf blower owned and operated by a homeowner for private residential use is assumed to have an average horsepower of 0.8 and a load factor of 50%, based on the ARB off-road emissions model. Emissions from one hour of operation are compared to exhaust emissions from two different age light duty vehicles (Table 10). There are few data available on the length of time a homeowner runs a leaf blower, but it is likely that the homeowner uses a leaf blower for less than one hour, which would reduce the potential exposures and impacts.

**Table 10. Homeowner Leaf Blower Emissions Compared to Light Duty Vehicle Emissions
0.8 hp average, 50% load factor, 1999 emissions data**

	Exhaust Emissions, g/hr	Exhaust Emissions, new light duty vehicle,* g/hr	Exhaust Emissions, older light duty vehicle,** g/hr
Hydrocarbons	56.73	0.39	201.9
Carbon Monoxide	119.2	15.97	1310
Particulate Matter	1.44	0.13	0.78
Fugitive Dust	48.6-1031	N/A	N/A

*New light duty vehicle represents vehicles one year old, 1999 or 2000 model year, driven for one hour at 30 mph.

**Older light duty vehicle represents vehicles 1975 model year and older, pre-catalytic vehicle, driven for one hour at 30 mph.

As with the heavier-duty commercial leaf blower, CO and particulate matter emissions from the lighter-duty leaf blower are many times higher than emissions of the same pollutants from vehicles (Table 10). CO emissions from a leaf blower that might be used by a typical homeowner are significantly lower than those from a commercial leaf blower (Table 9) and it is likely that homeowners use leaf blowers for much less than one hour at a time. The exposure scenario for homeowner usage (Appendix J) estimates a correspondingly lower potential exposure. The homeowner is, therefore, less likely to be exposed to potentially harmful amounts of carbon monoxide, although sensitive individuals should be cautioned. For all exhaust emissions, exposures are considerably lower in a residential setting than in a commercial setting. In the best case, all emissions and fugitive dust from the leaf blower would be blown out of the operator's immediate area, resulting in little or no exposure. Actual exposures would most likely be somewhere in between these two assumptions and would vary greatly with weather conditions, wind, use or nonuse of protective gear, walking speed of the operator, and type of machine used. Exposure studies would need to be conducted to obtain more reliable estimates of operator exposure, and staff recommend further research.

As discussed in Section IV. A. 1., another way to visualize the data is to compare emissions for a given amount of leaf blower operation to miles traveled by car. The Air Resources Board regularly publishes such emissions benchmarks. Thus, for the average 1999 homeowner-type leaf blower and car data presented in Table 10, we calculate that hydrocarbon emissions from one-half hour of leaf blower operation equal about 2,200 miles of driving, at 30 miles per hour average speed. The carbon monoxide emission benchmark is significantly different. For carbon monoxide, one-half hour of a homeowner-type leaf blower useage (Table 10) would be equivalent to about 110 miles of automobile travel at 30 miles per hour average speed.

2. Fugitive Dust Emissions

For fugitive dust, because the homeowner is likely using leaf blowers for a very short time each week, the potential risk from exposure is much lower than for commercial gardeners. Still, based on estimates in the exposure scenario (Appendix J), staff recommends that even homeowners wear a dust filtering mask when using a leaf blower.

3. Noise

The homeowner who uses a leaf blower for a brief amount of time each week or two is unlikely to experience noise-induced hearing loss. The cumulative exposure to many recreational sources of noise, such as recreational power tool use, lawn care, shooting, boating, concert-going, and other activities that expose one to loud noises, however, is likely to be great enough to impact hearing (Clark 1991). Those who regularly use noisy power equipment should be in the habit of using hearing protection to reduce their overall exposure to potentially damaging noise.

The likelihood of a bystander exposed to leaf blower noise on an irregular basis experiencing hearing loss is low. The potential health impacts from leaf blowers on bystanders that are likely more important include interference with communication, sleep interruption, and annoyance. Each of these impacts may in turn lead to stress responses, although research has not conclusively tied chronic exposures with any particular adverse health outcome. Although interference with communication, sleep interruption, and annoyance may not seem to be serious impacts, they are important health and quality of life issues for many people. At least 100 municipalities in California have restricted or banned the use of leaf blowers within city limits in response to people who object to the loud noise of leaf blowers interrupting their lives.

C. Summary of Potential Health Impacts

Health effects from hazards identified as being generated by leaf blowers ranging from mild to serious, but the appearance of those effects depends on exposures: the dose, or how much of the hazard is received by a person, and the exposure time. Without reasonable estimates of exposures, ARB cannot conclusively determine the health impacts from leaf blowers; the discussion herein clearly is about potential health impacts. The goal is to direct the discussion and raise questions about the nature of potential health impacts for those exposed to the exhaust emissions, fugitive dust, and noise from leaf blowers in both occupational and non-occupational settings.

For the worker, the analysis suggests concern. Bearing in mind that the worker population is most likely young and healthy, and that these workers may not work in this business for all of their working lives, we nonetheless are cautioned by our research. Leaf blower operators may be exposed to potentially hazardous concentrations of CO and PM intermittently throughout their work day, and noise exposures may be high enough that operators are at increased risk of developing hearing loss. While exposures to CO, PM, and noise may not have immediate, acute effects, the potential health impacts are potentially greater for chronic effects. In addition, evidence of significantly elevated concentrations of benzene and 1,3-butadiene in the breathing zone of workers leads to concern about exposures to these two toxic air contaminants.

Potential noise and PM effects should be reduced by the use of appropriate breathing and hearing protective equipment. Employers should be more vigilant in requiring and ensuring their employees wear breathing and hearing protection. Regulatory agencies should conduct educational and enforcement campaigns, in addition to exploring the extent of the use of protective gear. Exposures to CO and other air toxics are more problematic because there is no effective air filter for these air pollutants. More study of CO and other air toxics exposures to leaf blower operators is warranted to determine whether the potential health effects discussed herein are actual effects or not.

Describing the impacts on the public-at-large is more difficult than for workers because people's exposures, and reactions to those exposures, are much more variable. Bystanders are clearly annoyed and stressed by the noise and dust from leaf blowers. They can be interrupted, awakened, and may feel harassed, to the point of taking the time to contact public officials, complain, write letters and set up web sites, form associations, and attend city council meetings. These are actions taken by highly annoyed individuals who believe their health is being negatively impacted. In addition, some sensitive individuals may experience extreme physical reactions, mostly respiratory symptoms, from exposure to the kicked up dust.

On the other hand, others voluntarily purchase and use leaf blowers in their own homes, seemingly immune to the effects that cause other people such problems. While these owner-operators are likely not concerned about the noise and dust, they should still wear protective equipment, for example, eye protection, dust masks, and ear plugs, and their exposures to CO are a potential problem and warrant more study.

V. RECOMMENDATIONS

The Legislature asked ARB to include recommendations for alternatives in the report, if ARB determines alternatives are necessary. This report makes no recommendations for alternatives. Based on the lack of available data, such conclusions are premature at this time. Exhaust standards already in place have significantly reduced exhaust emissions from the engines used on leaf blowers, and manufacturers have reduced CO emissions further than required by the standards. Ultra-low or zero exhaust emitting leaf blowers could further reduce public and worker exposures. At its January 27, 2000, public hearing, the Air Resources Board directed its staff to explore the potential for technological advancement in this area.

For noise, the ARB has no Legislative mandate to control noise emissions, but the evidence seems clear that quieter leaf blowers would reduce worker exposures and protect hearing, and reduce negative impacts on bystanders. In connection with this report, the Air Resources Board received several letters urging that ARB or another state agency set health-based standards for noise and control noise pollution.

A more complete understanding of the noise and the amount and nature of dust resuspended by leaf blower use and alternative cleaning equipment is suggested to guide decision-making. Costs and benefits of cleaning methods have not been adequately quantified. Staff estimates that a study of fugitive dust generation and exposures to exhaust emissions and dust could cost \$1.1 million, require two additional staff, and take two to three years. Adding a study of noise exposures and a comparison of leaf blowers to other cleaning equipment could increase study costs to \$1.5 million or more (Appendix H).

Fugitive dust emissions are problematic. The leaf blower is designed to move relatively large materials, which requires enough force to also blow up dust particles. Banning or restricting the use of leaf blowers would reduce fugitive dust emissions, but there are no data on fugitive dust emissions from alternatives, such as vacuums, brooms, and rakes. In addition, without a more complete analysis of potential health impacts, costs and benefits of leaf blower use, and potential health impacts of alternatives, such a recommendation is not warranted.

Some have suggested that part of the problem lies in how leaf blower operators use the tool, that leaf blower operators need to show more courtesy to passersby, shutting off the blower when people are walking by. Often, operators blow dust and debris into the streets, leaving the dust to be resuspended by passing vehicles. Interested stakeholders, including those opposed to leaf blower use, could join together to propose methods for leaf blower use that reduce noise and dust generation, and develop and promote codes of conduct by workers who operate leaf blowers. Those who use leaf blowers professionally would then need to be trained in methods of use that reduce pollution and potential health impacts both for others and for themselves.

VI. REFERENCES CITED

- Air Resources Board, Staff report: Initial Statement of Reasons (ISOR) for the public hearing to consider amendments to the 1999 small off-road engine regulations. Mailout MSC#98-02, January **1998a**; [online at: <http://arbis.arb.ca.gov/regact/sore/sore.htm>].
- Air Resource Board. Notice of public meeting to consider the approval of California's 1990 small off-road engine emission inventory. Mailout MSC#98-04, March **1998b**.
- Air Resources Board. Compound summaries, Toxic Air Contaminant identification list. Acetaldehyde, pp 1-5; Benzene, pp 91-96; 1,3-Butadiene, pp 141-145; Formaldehyde, pp 513-517. [Online at <http://arbis.arb.ca.gov/toxicx/tac/toctbl.htm>] September **1997**.
- Air Resources Board, Research Division. Cardiac response to carbon monoxide in the natural environment. Contract no. A3-138-33. **1992**.
- Allen, Jack; Legislative Liaison for Zero Air Pollution, letter to Nancy Steele, Air Resources Board, July 29, **1999a**.
- Allen, Jack; Coalition to Ban Leafblowers, letter to Dr. Nancy Steele, Air Resources Board, October 5, **1999b**.
- AAP (American Academy of Pediatrics), Committee on Environmental Health. Noise: A Hazard for the Fetus and Newborn (RE9728). *Pediatrics*, 100(4), **1997**; [online at: <http://www.aap.org/policy/re9728.html>, 07/08/99].
- Anonymous (confidential), Research & Development Laboratory. *Leafblower Usage Survey, Commercial Contractors/So. California*, February **1999**.
- Barnhouse, L.; Fava, J.; Humphreys, K.; Hunt, R.; Laibson, L.; Noesen, S.; Norris, G.; Owens, J.; Todd, J.; Vigon, B.; Weitz, K.; & Young, J.; *Life-cycle Impact Assessment: the State-of-the-art, 2nd ed.* Report of the SETAC Life-Cycle Assessment Impact Assessment Workgroup. Society of Environmental Toxicology and Chemistry, Pensacola, FL, **1997**.
- Berglund, B; Lindvall, T. *Community Noise*. Archives of the Center for Sensory Research, 2: 1-195, **1995**; [online: http://www.who.int/environmental_information/Information_resources/community_noise.htm].
- Botsford, CW; Lisoski, D; Blackman, W; Kam, W. *Fugitive Dust Study - Characterization of Uninventoried Sources*. Final report. AV-94-06-214A. AeroVironment, Monrovia, CA. March, **1996**.

- CDF (California State Department of Finance). City/county population estimates, with annual percent change, January 1, 1998 and 1999. Sacramento, CA, May **1999**; [online at: <http://www.dof.ca.gov/html/Demograp/e-1text.htm>, 07-27-99].
- CDF (California State Department of Finance). Historical county population estimates and components of changes, July 1, 1970-1990. Sacramento, CA, December, **1998**; [online at: <http://www.dog.ca.gov/html/Demograp/E-6cover.htm>, 8/2/1999].
- City of Los Angeles. Letter received from Ronald F. Deaton, Office of the Legislative Analyst, to Robert H. Crosse [sic], with attachment, dated August 6, **1999**.
- City of Palo Alto. City Manager's Report. *Approval of ordinances amending Palo Alto municipal code chapter 9.10 modifying leaf blower regulations to include a ban of fuel-powered leaf blowers in residential areas, Chapter 9.10 related to public property noise limits and Chapter 9.48 prohibiting the blowing of debris onto adjacent properties*. CMR:120:00, January 31, **2000**.
- City of Palo Alto. City Manager's Report. *Revised recommendations regarding the use of leaf blowers in Palo Alto*. CMR:352:99, September 14, **1999b**.
- City of Palo Alto. City Manager's Report. *Recommendations regarding the regulations of the use of leaf blowers in Palo Alto*. CMR:139:99, February 23, **1999a**.
- City of Palo Alto. City Manager's Report; *Leaf blower assignment - 2nd status report*. CMR:341:98, August 10, **1998b**.
- City of Palo Alto. City Manager's Report; *Leaf blower assignment status report*. CMR:216:98, April 27, **1998a**.
- Clark, WW; Bohne, BA. Effects of noise on hearing. *JAMA*, 281: 1658-1659, **1999**.
- Clark, WW. Noise exposure from leisure activities: a review. *J. Acoust. Soc. Am.*, 90:175-181, **1991**.
- CLCA (California Landscape Contractors Association). CLCA positions on leaf blowers. March **1999**.
- Consumer Reports. *Noise*. Special report. September, pp 19-22, **1999**.
- Covell, N. *Report back on the air quality impact of leaf blowers*. Memo to the Board of Directors, Sacramento Metropolitan Air Quality Management District. For the agenda of: March 5, **1998**.

- CQS. Leaf blower facts website, undated; [Online at: <http://www.nonoise.org/quietnet/cqs/leafblow.htm>, 8/16/1999a].
- CQS. Leaf blower operator compliance with manufacturer's safety instructions. Compiled by Julie Kelts, Sacramento, CA, August - September 1999b.
- Dunaway, Mac S., Counsel for PPEMA (Portable Power Equipment Manufacturers' Association). Transmittal of ANSI B175.2-1996 proposed revision in letter to Jackie Lourenco, Air Resources Board, June 15, 1999.
- Fava, J; Consoli, R; Denison, R; Dickson, K; Mohin, T; Vigon, B. *A Conceptual Framework for Life-cycle Impact Assessment*. Proceedings of a workshop in Sandestin, FL, 1-7 Feb 1992. Society of Environmental Toxicology and Chemistry, Pensacola, FL, 1993.
- Fava, J; Denison, F; Jones, B; Curran, M; Vigon, B; Selke, S; Barnum, J. *A Technical Framework for Life-cycle Assessment*. Proceedings of a workshop in Smuggler's Notch, VT, 18-23 Aug. 1990. Society of Environmental Toxicology and Chemistry, Pensacola, FL, 1991.
- Fidell, S; Barber, DS; Schultz, TJ. Updating a dosage-effect relationship for the prevalence of annoyance due to general transportation noise. *J. Acoust. Soc. Am.*, 89: 221-233, 1991.
- Fields, JM. Policy-related goals for community response. In *Noise as a Public Health Problem*, Berglund, B; Lindvall, T, Eds.; Proceedings of the 5th International Congress on Noise as a Public Health Problem, Aug 21-25, 1998. Swedish Council for Building Research: Stockholm, 1990; pp 115-134.
- Finlayson-Pitts, B. and Pitts, JN. *Atmospheric Chemistry: Fundamentals and Experimental Techniques*. John Wiley & Sons: New York, 1986.
- Fletcher, H; Munson, AW. Loudness, its definition, measurement and calculation. *J Acoust. Soc. Am.*, 5: 82-108, 1933.
- Gillies, J, Chow, J, Nickling, WG. *Resuspension of Particles by Wind - A Literature Review for San Joaquin Valley Regional Particulate Study*. Technical Support Study No.5: Particle Resuspension; for the California Air Resources Board, Sacramento, January 29, 1996.
- Hager, Lee; James, Anderson & Associates, Inc. Facsimile transmission to Nancy Steele, ARB, on October 8, 1999, 1 p.
- Hall, MF. PPEMA comments on draft ARB leafblower report. Letter to Dr. Nancy Steele, ARB, October 8, 1999, 12 pp plus attachments.
- IME (International Marketing Exchange, Inc.). City list of noise activity as of July 16, 1999. Inventory of documents, July 1999.

- Kryter, KD. *The Handbook of Hearing and the Effects of Noise: Physiology, Psychology, and Public Health*. Academic Press: San Diego, **1994**.
- League for the Hard of Hearing. *Noise Levels in our Environment Fact Sheet*, March 19, **1999**; [online at: <http://www.lhh.org/noise/decibel.htm>, 06/15/99].
- LINK (Landscapers Involved With Neighborhoods and Kids). Website, **1999**; [online at: www.concentric.net/~Wrigfam, 7/23/1999].
- Maisarah, SZ; Said, H. The noise exposed factory workers: the prevalence of sensori-neural hearing loss and their use of personal hearing protection devices. *Med. J. Malaysia*, 48: 280-285, **1993**.
- Mathews, KE, Jr.; Canon, LK. Environmental noise level as a determinant of helping behavior. *J. of Personality and Social Psychology*, 32: 571-577, **1975**.
- McGuire, T. *Air Pollution from Leaf Blowers*, letter to RG Johnson, Sacramento Metropolitan Air Quality District. Air Resources Board, Technical Support Division; July 9, **1991**.
- Miguel, AG; Cass, GR; Glovsky, MM; Weiss, J. Allergens in paved road dust and airborne particles. *Environ. Sci. & Technol.*, 33: 4159-4168, **1999**.
- MRI (Midwest Research Institute). *Fugitive Particulate Matter Emissions*, Final Report for U.S EPA; MRI Project No. 4604-06. Kansas City, Missouri, April 15, **1997**.
- MPCA (Minnesota Pollution Control Agency). *An Introduction to Sound Basics*. St. Paul, MN, **1987**; [online at: <http://www.nonoise.org/library/sndbasic/sndbasic.htm>, 07/08/99].
- Muleski, Gregory E., Midwest Research Institute. Personal communication with Hector Maldonado, Air Resources Board, August **1999**.
- Nakamura, Douglas, Northwest Landscape Maintenance, in a letter to Dr. Nancy Steele, ARB, October 8, **1999**, 2 pp.
- NIOSH (National Institute for Occupational Safety and Health). *Criteria for a recommended standard occupational noise exposure*, revised criteria. Draft document; August 12, **1996**; [online at: <http://www.nonoise.org/library/niosh/criteria.htm>, 8/12/99].
- NRC (National Research Council). *Risk Assessment in the Federal Government: Managing the Process*. National Academy Press: Washington, D.C., **1983**.
- Omenn, GS; Kessler, AC; Anderson, NT; Chiu, PY; Doull, J; Goldstein, B; Lederberg, J; McGuire, SM; Rall, D; Weldon, VV; Charnley, G. *Risk Assessment and Risk Management*

- in Regulatory Decision Making*, Vol. 2. Presidential/Congressional Commission on Risk Assessment and Risk Management, Washington, D.C., **1997**.
- Orange County Grand Jury. *Leaf Blower Pollution Hazards in Orange County*. Orange County Council of Governments, February 17, **1999**.
- PPEMA (Portable Power Equipment Manufacturers Association). Hand held gasoline powered equipment 1998 U.S. shipments and 1999 outlook. Press release. March 8, **1999**.
- Rippey, Mary, Labor Market Information Division, California Employment Development Department. Personal communication with Nancy Steele, August 4, **1999**.
- SCAQMD.(South Coast Air Quality Management District). Final staff report, proposed rule 1623 - credits for clean lawn and garden equipment. Diamond Bar, CA, May **1996**.
- Schulze, LJH; Lucchesi, J. Sound pressure levels of common lawn equipment used in the industrial and non-industrial work environment. Presented at American Industrial Hygiene Conference and Exposition, Dallas, TX, **1997**.
- Seinfeld, JH, and Pandis, SN. *Atmospheric Chemistry and Physics - From Air Pollution to Climate Change*. Wiley & Sons: New York, **1998**.
- Shapiro, SA. *The Dormant Noise Control Act and Options to Abate Noise Pollution*. Administrative Conference of the United States, November **1991**; [online at: <http://www.nonoise.org/library/shapiro/shapiro.htm>, 06/15/99].
- Smaus, R. Leaf blowers make for barren earth. Los Angeles Times, K10, K15., July 13, **1997**.
- Stevens, SS. The measurement of loudness. *J. Acoust. Soc. Am.*, 27: 815-829, **1955**.
- Suter, AH. *Noise and its effects*. Administrative Conference of the United States, November **1991**; [online at: <http://www.nonoise.org/library/suter/suter.htm>, 06/15/99].
- Talbott, EO; Rindlay, RC; Kuller, LH; Lenkner, LA; Matthews, KA; Day, RD; Ishii, EK. Noise-induced hearing loss: a possible marker for high blood pressure in older noise-exposed populations. *J. Occup. Med.*, 32: 690-697, **1990**.
- U.S. EPA, Office of Air and Radiation. Phase 2 emission standard for new nonroad spark-ignition handheld engines at or below 19 kilowatts; proposed rule. 64 Federal Register 40940-40972; July 28, **1999a**.
- U.S. EPA, Office of Research and Development. Air quality criteria for carbon monoxide. External review draft. EPA/600/P-99/001. Washington, D.C., **1999b**.

- U.S. EPA, Office of Air and Radiation. *Compilation of Air Pollutant Emission Factors, Volume II, Mobile Sources, Section II: Nonroad Mobile Sources; AP-42, 4th Edition*, Washington, D.C., **1997**.
- U.S. EPA, Office of Research and Development. Air quality criteria for particulate matter. EPA/600/P-95/001aF. Washington, D.C., **1996**.
- U.S. EPA, Office of Noise Abatement and Control. *Noise in America: the extent of the noise problem*. EPA 550/9-81-101. Washington, D.C., September **1981**.
- U.S. EPA, Office of Noise Abatement and Control. *Information of levels of environmental noise requisite to protect public health and welfare with an adequate margin of safety*. EPA/ONAC 55019-74-004, Washington, DC, March **1974**; [online at: www.nonoise.org/library/levels74/levels74.htm, 7/15/1999].
- Venkatram, A; Fitz, DR. Measurement and modeling of PM10 and PM2.5 emissions from paved roads in California. Phase I Final Report, ARB#94-336. Prepared for the Air Resources Board. November **1998**.
- Will, Larry, Vice President, Engineering, Echo Incorporated. Personal communication with Nancy Steele, August **1999a**.
- Will, Larry, Vice President, Engineering, Echo Incorporated, in a letter to Dr. Nancy Steele, ARB, September 23, **1999b**.
- Wolfberg, D; Wolfberg, G. Survey 99 Report. ZAP Education Committee, Los Angeles, CA. September 28, **1999**.
- Yardemiam, Vasken, Transportation Specialist, SCAQMD, Diamond Bar, CA. Personal communications with Nancy Steele, ARB, July **1999**.
- Zero Air Pollution. A study of operator observance of safety instructions for gas powered leaf blowers and of time of use of blowers. Prepared by Jack Allen, Chairman, Research Committee, Pacific Palisades, CA. August 30, **1999**.
- Zinko, C. Leaf-blower showdown on way in Palo Alto. San Francisco Chronicle, A22, February 2, **2000**.
- Zwerling, E. Electronic communications with Nancy Steele, October **1999**, 8 pp.

Comparison between gas and electric leaf blowers

If electric leaf blowers are continuously used at the turbo setting (highest power), it can drain the battery quickly. Backpack batteries for leaf blowers typically last about two hours with handheld leaf blower batteries lasting less. For professional gardeners, it is likely they will need at least one additional backup battery. The table below provides a comparison of performance, cost, and other considerations between gas and electric leaf blowers.

Table 1: Comparison of Gas and Electric Leaf Blowers

Type of equipment	Gas	Electric/Battery
Backpack leaf blower	Miles per hour (MPH): Up to 239 Airflow-cubic feet per minute (CFM): up to 912 Cost range: \$360-\$650 Cost for fuel: See case study Convenience: Does not require charging and easy to refuel	MPH: up to 192 Airflow CFM: up to 792 Cost range: \$400-\$700 Limited time discount cost: \$300 Cost for fuel: likely savings, but may require purchasing extra batteries \$1,300 per battery (limited time discount price \$450). Convenience: requires planning and efficient use of equipment as it takes 4-5 hours to charge if fully depleted. Battery lasts about two hours.
Handheld leaf blower	MPH: up to 190 CFM: up to 444 Cost range: \$150-\$250 Cost for fuel: See case study Convenience: Does not require charging and easy to refuel	MPH: up to 188 CFM: up to 494 Cost Range: \$280-\$450 Limited time discount: \$150 Cost for fuel: Likely savings, but may require purchasing extra batteries \$50 per battery (limited time discount \$15) Convenience: requires planning and efficient use of equipment as it takes 1 to 2 hours to charge if fully depleted



February 1, 2023

RE: Requesting feedback on proposed gas powered landscaping equipment requirements

Dear gardening professional,

Menlo Park residents want the City to address noise and air pollution caused by gas powered gardening equipment with proposed new rules for zero emission equipment.

The City Council will decide on new rules in April or May 2023. If approved:

- Use of gas-powered leaf blowers and string trimmers (weed whackers) will not be allowed starting July 2024.
- Use of other gas-powered gardening equipment such as chain saws, lawnmowers and hedge trimmers would not be allowed starting January 2029.
- Property owners would be fined if the hired landscaping/gardening service uses gas powered equipment after the new rules take effect.
- You would receive no fines or penalties based on the proposed rules. But your customers may ask you to use electric equipment so they are not fined.

Survey link



publicinput.com/zele

Website for info and webinar registration



menlopark.gov/zele

Take action

1. Tell us your thoughts at publicinput.com/zele. Let me know if you need a paper survey.
2. Discounts on electric equipment are available for a limited time. View attachment.
3. Go to a virtual meeting to learn about discounted equipment, tips on switching to electric, and to tell us your thoughts on the proposed rules. Register at menlopark.gov/zele
 - Thursday, Feb. 16, 2023, from 7:30–8:30 p.m.
 - Tuesday, Feb. 28, 2023, from 12:15-1:15 p.m.
 - Sunday, March 5, 2023, from 10:30-11:30 a.m.

Do you have questions or need help? Please email me, Rebecca Lucky, at rlucky@menlopark.gov or call 650-330-6765. Subscribe to updates under Projects at menlopark.gov/subscribe.



1 de febrero de 2023

RE: Solicitando comentarios sobre los requisitos propuestos para los equipos de jardinería que funcionan con gas

Estimado profesional de jardinería,

Los residentes de Menlo Park quieren que el Ayuntamiento aborde la contaminación acústica y atmosférica causada por los equipos de jardinería que funcionan con gas con las nuevas normas propuestas para los equipos de emisiones cero.

El Ayuntamiento decidirá sobre las nuevas normas en abril o mayo de 2023. Si se aprueban:

- El uso de sopladores de hojas y recortadoras de hilo (desbrozadoras) que funcionen con gas no estará permitido a partir de julio de 2024.
- El uso de otros equipos de jardinería que funcionen con gas, como motosierras, cortacéspedes y cortasetos, no estaría permitido a partir de enero de 2029.
- Los propietarios serían multados si el servicio contratado de paisajismo/jardinería utiliza equipos que funcionan con gas después de la entrada en vigor de las nuevas normas.
- Usted no recibiría ninguna multa o sanción basada en las normas propuestas. Pero es posible que sus clientes le pidan que utilice equipos eléctricos para no ser multados.

Encuesta



publicinput.com/zeles

Página web para obtener información e inscribirse en el seminario web



menlopark.gov/zele

Tome medidas

1. Díganos lo que piensa en publicinput.com/zeles. Avíse si necesita una encuesta en papel.
2. Los descuentos en equipos eléctricos están disponibles por tiempo limitado. Ver archivo adjunto.
3. Asista a una reunión virtual para informarse sobre los descuentos en equipos, consejos para pasarse a la electricidad y para darnos su opinión sobre las normas propuestas. Inscríbese en menlopark.gov/zele
 - Jueves, 16 de febrero de 2023, de 7:30 a 8:30 p.m.
 - Martes, 28 de febrero de 2023, de 12:15 a 1:15 p.m.
 - Domingo, 5 de marzo de 2023, de 10:30-11:30 a.m.

¿Tiene preguntas o necesita ayuda? Envíe un correo electrónico, a [Rebecca Lucky, rlucky@menlopark.gov](mailto:rlucky@menlopark.gov) o llame al 650-330-6765. Suscríbese a las actualizaciones en Proyectos en menlopark.gov/subscribe.

Electric Gardening/Landscaping Equipment Deal Going Fast!

High Quality Electric Leaf Blowers, String Trimmers, Lawn Mowers, Hedge Trimmers, and Chainsaws Available

Don't miss out on improving your health, the environment, and a limited time deep discount on electric landscaping/gardening equipment. It is easy! Just show up at an approved store (see next page), order equipment, and receive discount! **IMPORTANT: Bring a business card or other evidence that shows you primarily provide landscaping or gardening services.** Spanish speaking representatives available.

Not all dealers and discounted equipment, such as string trimmers, lawn mowers, hedge trimmers, and chainsaws are shown. A more comprehensive list can be found at <https://californiacore.org/equipment-category/landscaping-gardening/>.

If you need more assistance, please call or email Rebecca Lucky at 650-330-6765 or rlucky@menlopark.gov.

¡La oferta de equipos de jardinería eléctricos va rápido!

Sopladores de hojas eléctricos de alta calidad, cortadoras de hilo, cortadoras de césped, cortadoras de setos y motosierras disponibles

No se pierda la mejora de su salud, el medio ambiente y un gran descuento por tiempo limitado en equipos de jardinería eléctricos. ¡Es fácil! ¡Simplemente preséntese en una tienda aprobada (vea la página siguiente), ordene el equipo y reciba un descuento! **IMPORTANTE: Traiga una tarjeta de presentación u otra evidencia que demuestre que brinda principalmente servicios de jardinería.** Representantes de habla hispana disponibles.

No se muestran todos los distribuidores y equipos con descuento, como cortadoras de hilo, cortadoras de césped, cortadoras de setos y motosierras. Puede encontrar una lista más completa en <https://californiacore.org/equipment-category/landscaping-gardening/>.

Si necesita más ayuda, llame o envíe Rebecca Lucky un correo electrónico al 650-330-6765 o rlucky@menlopark.gov para encontrar un distribuidor cerca de usted.













¿Sabía que usar un soplador de hojas durante 1 hora es igual a respirar la misma contaminación del aire durante un viaje de 15 horas (desde Los Ángeles, California hasta Denver, Colorado)?









Los equipos de jardinería emiten más contaminación del aire que todos los automóviles en California y contribuyen al daño del corazón, los pulmones y el sistema nervioso.

Did you know that using a leaf blower for 1 hour is equal to breathing the same air pollution (smog) from a 15-hour drive (from Los Angeles, California to Denver, Colorado)?

Landscaping equipment emits more smog than all the cars in California, and contributes to heart, lung and nervous system damage.

Leaf Blowers Sopladores de hojas		Stores that offer discounts near Menlo Park Tiendas que ofrecen descuentos cerca de Menlo Park			
 <p>EGO 600CFM Blower</p> <p>Regular Price Precio regular \$429.99</p> <p>Discount Price Precio descontado \$129.99</p>	 <p>EGO Backpack Blower – 800 CFM Bare Tool (Inc. 1*Nozzle)</p> <p>Regular Price Precio regular \$399.99</p> <p>Discounted price Precio descontado \$120.00</p>	<p>Ewing Hayward, Rudy Cornejo 30928 San Antonio Street- Hayward 510-441-9530 rcornejo@ewingirrigation.com</p> <p>Ewing Dublin, Alex Gomez 6640 Sierra Ln- Dublin 925-828-5618 agomez@ewingirrigation.com</p> <p>San Mateo Lawn Mower, Don Okano 760 So. Amphlett Blvd- San Mateo 650-348-0359 sanmateolm@aol.com</p> <p>Gardenland Center JP Silva 196 Curtner Ave- Campbell 408-377-4496 jpgilva@gardenland.com</p>			
 <p>EGO Backpack Blower Kit – 800 CFM (2*6Ah battery, CH2800D charger, 1*Nozzle)</p> <p>Regular Price Precio regular \$699.99</p> <p>Discounted price Precio descontado \$299.99</p>	 <p>EGO Multi port charging unit 6-port Mobile Charging Case</p> <p>Regular Price Precio regular \$699.99</p> <p>Discounted price Precio descontado \$210.00</p>				
 <p>EGO 560W Dual Port Charger (cargadores)</p> <p>Regular Price Precio regular \$199.99</p> <p>Discounted price Precio descontado \$60.00</p>	 <p>EGO Batteries (baterías)</p> <p>Regular Price Precio regular \$179.99-1,399.99</p> <p>Discounted price Precio descontado \$54.00-420.00</p>				

Leaf Blowers Sopladores de hojas		Dealers that offer discounts near Menlo Park Tiendas que ofrecen descuentos cerca de Menlo Park		
 <p>Stihl BGA 200 CORDLESS HANDHELD BLOWER/ UNIT ONLY</p>	<p>Regular Price Precio regular \$449.99</p> <p>Discounted price Precio descontado \$149.99</p>	 <p>Stihl BGA 300 CORDLESS BACKPACK BLOWER/ UNIT ONLY</p>	<p>Regular Price Precio regular \$699.99</p> <p>Discounted price Precio descontado \$299.99</p>	<p>Ewing Irrigation (San Carlos), Craig Gruber 926 Bransten Rd-San Carlos (650) 592-9530 cgruber@ewingirrigation.com</p> <p>Ewing (Hayward), Rudy Cornejo 30928 San Antonio Street- Hayward 510-441-9530 rcornejo@ewingirrigation.com</p> <p>Ewing (Dublin), Alex Gomez 6640 Sierra Ln- Dublin 925-828-5618 agomez@ewingirrigation.com</p> <p>Ewing (San Leandro), Joe Garcia 2462 Polvorosa Ave- San Leandro (510) 357-9530 jgarcia@ewingirrigation.com</p> <p>San Mateo Lawn Mower, Don Okano 760 So. Amphlett Blvd- San Mateo 650-348-0359 sanmateolm@aol.com</p> <p>Gardenland Center, JP Silva 196 Curtner Ave- Campbell 408-377-4496 jpsilva@gardenland.com</p>
 <p>Stihl Chargers (cargadores)</p>	<p>Regular Price Precio regular \$49.99-299.99</p> <p>Discounted price Precio descontado \$15.00-90.00</p>	 <p>Stihl Batteries (baterías)</p>	<p>Regular Price Precio regular \$49.99-1,499.99</p> <p>Discounted price Precio descontado \$15.00-450.00</p>	

Leaf Blowers Sopladores de hojas		Dealers that offer discounts near Menlo Park Tiendas que ofrecen descuentos cerca de Menlo Park	
 <p>Greenworks Tools 82v DP BP Blower with (2) 5 Ah Batteries, DP RP Charger</p>	<p>Regular Price Precio regular \$799.99</p> <p>Discounted price Precio descontado \$399.99</p>	 <p>Greenworks Tools 82v HH Blower with (1) 4 Ah Battery, DP RP Charger</p>	<p>Regular Price Precio regular \$499.99</p> <p>Discounted price Precio descontado \$199.99</p>
 <p>Greenworks Tools 82v Gen 1.5 DP BP Blower (Tool-Only)</p>	<p>Regular Price Precio regular \$362.99</p> <p>Discounted price Precio descontado \$108.90</p>	 <p>Greenworks Tools 82V 6-Port Charger w/ (6) 4 Ah Batteries</p>	<p>Regular Price Precio regular \$1,999.99</p> <p>Discounted price Precio descontado \$600.00</p>
 <p>Greenworks Tools 6 Port Charger</p> <p>Charger (cargadores)</p>	<p>Regular Price Precio regular \$549.99</p> <p>Discounted price Precio descontado \$165.00</p>	 <p>Greenworks Chargers (cargadores)</p>	<p>Regular Price Precio regular \$39.99-142.99</p> <p>Discounted price Precio descontado \$12.00-42.90</p>
 <p>Greenworks Batteries (baterías)</p>	<p>Regular Price Precio regular \$179.99-989.99</p> <p>Discounted price Precio descontado \$54.00-297.00</p>		

Horizon Distributors, Inc. (Menlo Park), Massoud Attai
4060 Campbell Ave- Menlo Park
650-323-5161

massoud.attai@horizononline.com

Horizon Distributors, Inc. (San Jose) Jaco Callanan
1990 Stone Ave- San Jose
408-287-7882




wlake151@westlakehardware.com

Horizon Distributors, Inc. (Dublin)
6700 Seirra Lane-Dublin
925-551-8383

jose.torres@horizononline.com

San Mateo Lawn Mower, Don Okano
760 So. Amphlett Blvd- San Mateo
650-348-0359

sanmateolm@aol.com

Power Management Systems Sistemas de administración de energía		Dealers that offer discounts near Menlo Park Tiendas que ofrecen descuentos cerca de Menlo Park
 <p>Regular Price Precio regular \$6,000</p> <p>Discounted price Precio descontado \$1,800</p> <p>Pellenc America Securion</p>		Gardenland Center, JP Silva 196 Curtner Ave- Campbell 408-377-4496 jpsilva@gardenland.com
Smart Chargers Cargadores inteligentes		Dealers that offer discounts near Menlo Park Tiendas que ofrecen descuentos cerca de Menlo Park
 <p>Regular Price Precio regular \$655</p> <p>Discounted price Precio descontado \$200</p> <p>TOWA 4-Channel 240V/20A PDM - Smart Charger</p>	 <p>Regular Price Precio regular \$650</p> <p>Discounted price Precio descontado \$195</p> <p>TOWA Main Controller</p>	Gardenland Center, JP Silva 196 Curtner Ave- Campbell 408-377-4496 jpsilva@gardenland.com SiteOne Landscape Supply (San Carlos), Dan Sams 815 American St- San Carlos 650-591-5163 dsams@siteone.com
Other brands of electric leaf blowers and gardening equipment. Otras marcas de sopladores de hojas eléctricos y equipos de jardinería.		Other Stores near Menlo Park Otras tiendas cerca de Menlo Park
Makita, Milwaukee, Husqvarna		Jackson's Hardware Inc.- Dan O'Gorman 62 Woodland Ave-San Rafael 415-454-3740 dan.ogorman@jacksonshardware.com
Makita, Milwaukee, TOWA, Husqvarna, Gravely		SiteOne Landscape Supply (San Carlos)- Dan Sams 815 American St- San Carlos 650-591-5163 dsams@siteone.com SiteOne Landscape Supply (San Jose)- Michael Swenson 1145 North 13th St 408-295-3376 mswenson@siteone.com



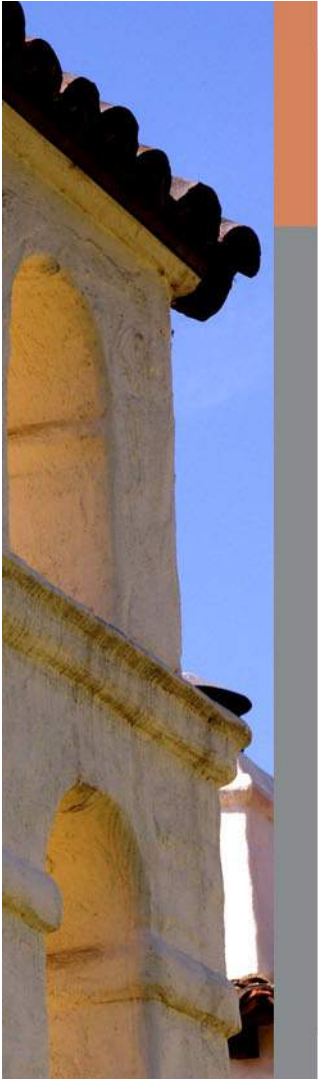
**ONLINE SURVEY RESULTS FOR PROPOSED RULES FOR
GAS POWERED GARDENING EQUIPMENT
FEBRUARY TO APRIL 2023**



OUTLINE

- Participant Breakdown and Summary
- Summary
- Professional Gardeners Responses
- Homeowners & Property Owners Responses
- Home Renters Responses





PARTICIPANT BREAKDOWN



Type	Participants
Professional Gardeners	12
Homeowners/Property Owners	248
Home renters	63
Total	323



SURVEY SUMMARY



- 90% of respondents were homeowners and home renters. 70% of this group are in support of the gas powered gardening equipment ban and would be willing to pay more for gardening services.
- 3.5% (or 12) of respondents were commercial gardeners . 66% of this group agrees that 2024 is a reasonable date to begin enforcement for leaf blowers and string trimmers.
- Although, the **majority are in favor of most of the proposed rules**, the following comments and concerns were frequent:

Commerical Gardeners Concerns	Homeowners & Renters Concerns
- Loss of productivity and heavy gear	- High cost of equipment
- Cost to transition is too high	- Unreliable power grid
- Equipment not as powerful	- Concerns for disadvantaged gardeners unable to afford to make change
- High costs of replacement battery	- Batteries also pollute
- No place to recharge batteries	
- Need more education	



COMMERCIAL GARDENER RESPONSES



GARDENER RESPONSES



Questions	Yes	No	Other/City should not regulate
Do you agree that July 1, 2024, is a reasonable date to begin enforcement?	4	2	0
Starting January 1, 2029 lawnmowers, hedge trimmers, and chainsaws would have to be electric...Do you agree 2029, is a reasonable date to begin enforcement?	1	2	1
Do you own or use electric or battery powered equipment for gardening tasks?	5	1	NA
Have you applied for electric gardening equipment incentives?	2	4	0
Will you be applying for any gardening equipment incentives?	3	1	2
Are you a gardening professional that would like to receive support in accessing discounted electric gardening equipment?	3	2	1



GARDENER & GARDENER RESPONSES

Comments	Summary
How would an electric powered gardening equipment requirement affect you and/or your business?	Majority responded negatively
How would using electric gardening equipment affect customer cost?	Majority responded increased costs
Do you have ideas to share in considering the proposed zero emission equipment regulation...?	Educate, better technology



DO YOU AGREE THAT JULY 1, 2024, IS A REASONABLE DATE TO BEGIN ENFORCEMENT?

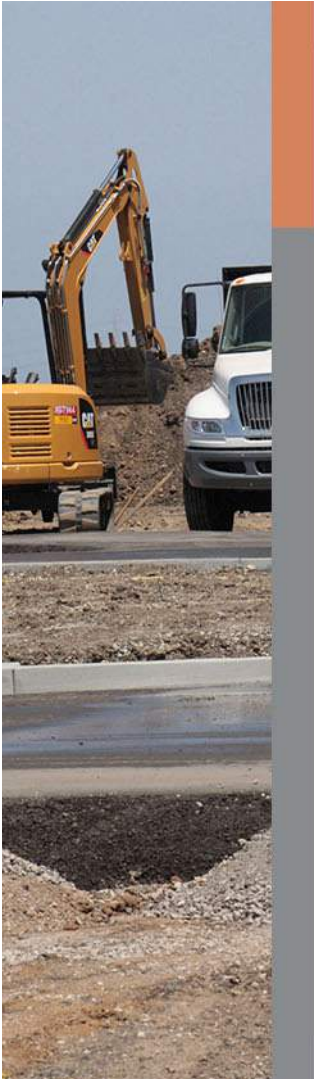
- 2 of 6 respondents think it should be sooner
- 2 of 6 respondents believe it should be later
- 1 of 6 respondents think July 2026 would be better





STARTING JANUARY 1, 2029 LAWNMOWERS, HEDGE TRIMMERS, AND CHAINSAWS WOULD HAVE TO BE ELECTRIC (NON-GAS-POWERED)...DO YOU AGREE THAT JANUARY 1, 2029, IS A REASONABLE DATE TO BEGIN ENFORCEMENT?

- 2 of 4 respondents agreed it should be sooner
- 1 of 4 respondents believe do not think the city should regulate this gardening equipment
- 2 of 2 respondents think July 2025 would be better



DO YOU OWN OR USE ELECTRIC OR BATTERY POWERED EQUIPMENT FOR GARDENING TASKS?

- 5 of 6 respondents own battery powered gardening equipment
- What equipment is electric?
 - 4 of 4 use electric leaf blowers
 - 1 of 4 uses electric string trimmer
 - 1 of 4 uses electric lawn mower
 - 1 of 4 uses electric hedge trimmer
- Why do you own electric equipment over gas equipment?
 - 3 of 5 responded that it is required in other communities
 - 2 of 5 responded it is cost effective
 - 2 of 5 responded for clean air
 - 2 of 5 responded it is better for me/employees
 - 2 of 5 responded less noise
 - 2 of 5 responded lower maintenance costs



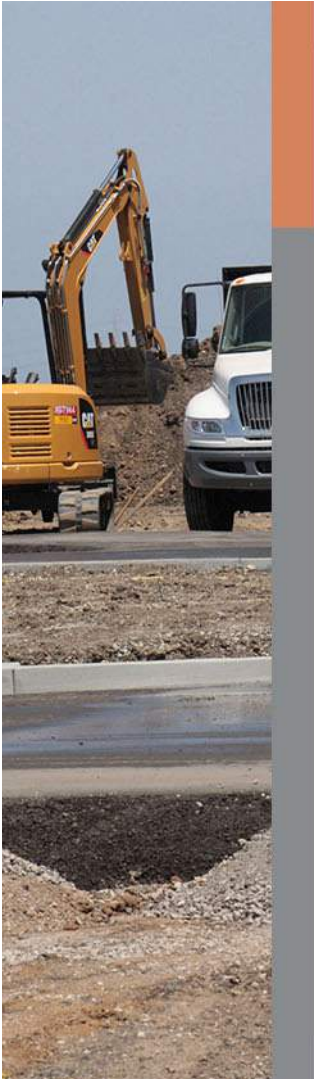
DO YOU OWN OR USE ELECTRIC OR BATTERY POWERED EQUIPMENT FOR GARDENING TASKS?



- Does the performance meet your expectations?
 - 2 of 5 responded YES
 - 3 of 5 responded NO

- Does the equipment durability and lifespan meet your expectations?
 - 1 of 5 responded NOT SURE
 - 2 of 5 responded YES
 - 2 of 5 responded NO

- Common comment themes:
 - Batteries don't last
 - Battery blowers are very expensive
 - Blowers are heavy to carry and do not last
 - Gas blowers have longer life span.



DO YOU OWN OR USE ELECTRIC OR BATTERY POWERED EQUIPMENT FOR GARDENING TASKS?

- Does battery charge and more batteries meet your expectations during the work task?
 - 2 of 5 responded YES
 - 1 of responded NOT SURE
 - 1 of responded SOMEWHAT
 - 1 of 5 responded NO

- Does battery replacement lifespan meet your expectations?
 - 1 of 5 responded NOT SURE
 - 2 of 5 responded YES
 - 2 of 5 responded NO

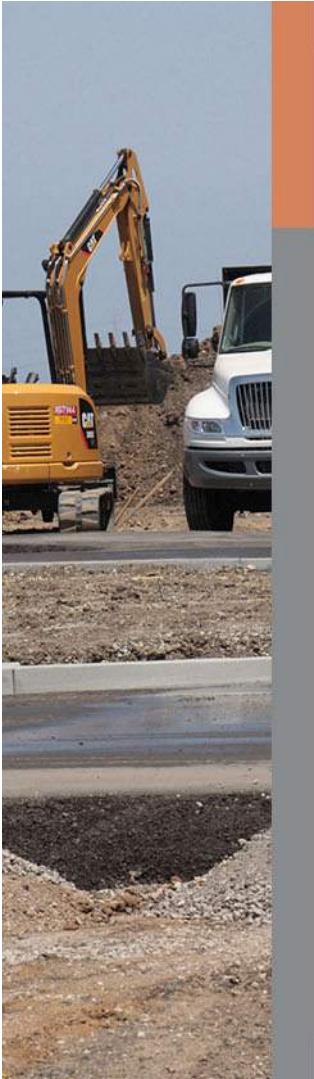


DO YOU OWN OR USE ELECTRIC OR BATTERY POWERED EQUIPMENT FOR GARDENING TASKS?

- Are you able to find electric gardening equipment easily?
 - 4 of 5 responded YES
 - 1 of 5 responded NO

- Does the cost of equipment meet your expectations?
 - 2 of 5 responded YES
 - 3 of 5 responded NO

- Do you have challenges determining how to set up a charging system that allows efficient charging of multiple batteries?
 - 2 of 5 responded YES
 - 1 of 5 responded NOT SURE
 - 1 of 5 responded SOMEWHAT
 - 1 of 5 responded NO



DO YOU OWN OR USE ELECTRIC OR BATTERY POWERED EQUIPMENT FOR GARDENING TASKS?

- Does the cost of setting up a charging system meet your expectations?
 - 2 of 5 responded YES
 - 2 of 5 responded NO
 - 1 of 5 responded NOT APPLICABLE

- Do you have any other feedback to share about your experiences with electric gardening equipment?
 - Push mowers should be used for small properties
 - It's impossible for the real workforce
 - Battery powered lawn mowers are not as durable as gas powered mowers
 - Time consuming
 - Batteries don't hold the charge for the larger lawns
 - Need better electric or battery equipment before it is forced on the gardeners



HOW WOULD AN ELECTRIC POWERED GARDENING EQUIPMENT REQUIREMENT AFFECT YOU AND/OR YOUR BUSINESS?



- Common comment themes:
 - Changing equipment will cost thousands of dollars
 - Gear needs to be better
 - Need to be able to charge at clients homes while on site
 - Longer work hours if equipment can't keep up
 - Higher cost for customers



HOW WOULD USING ELECTRIC GARDENING AND GARDENING EQUIPMENT AFFECT CUSTOMER COST?

- Responses:
 - 2 of 5 responded would not increase costs
 - 2 of 5 responded increase costs all year round
 - 1 of 5 responded increase costs during Fall/Winter when leaves are wet and heavier to move

- Common comment themes:
 - Increase cost
 - Technology needs to get better
 - Cost of new gear
 - Charging time at client homes



DO YOU HAVE IDEAS TO SHARE IN CONSIDERING THE PROPOSED ZERO EMISSION LANDSCAPE EQUIPMENT REGULATION, SUCH AS HOW TO HELP PREPARE THE COMMUNITY, GARDENERS AND GARDENERS FOR THE TRANSITION OR CHANGES TO THE PROPOSED REQUIREMENTS?



- Comments:
 - Offer Incentives to workers
 - Technology needs to improve
 - Effort to teach gardeners and homeowners not to blow soil/dust



HOMEOWNERS AND PROPERTY OWNERS RESPONSES



HOMEOWNERS AND PROPERTY OWNERS

Questions (248 respondents for most questions)	Yes	No	No Rule	No Opinion
Do you agree that July 1, 2024, is a reasonable date to begin enforcement?	69%	15%	15%	1%
Starting January 1, 2029 lawnmowers, hedge trimmers, and chainsaws would have to be electric...Do you agree 2029, is a reasonable date to begin enforcement?	49%	32%	17%	2%



HOMEOWNERS AND PROPERTY OWNERS

Questions	Yes	No	No Rule	No Opinion
Do you employ or use the services of a gardener for a Menlo Park property?	67%	33%	NA	NA
Customer costs are likely to increase for gardening services. Does this information impact your support to require only electric gardening equipment?	13%	68%	14%	4%
Are you willing to talk to your gardener to understand customer cost impacts for this transition to electric equipment?	58%	8%	10%	24%
Will you help provide a handout to your gardener?	72%	28%	NA	NA



DO YOU AGREE THAT JULY 1, 2024, IS A REASONABLE DATE TO BEGIN ENFORCEMENT?



- 57% want enforcement to begin sooner
- 18% do not want the City to regulate gas gardening equipment
- 8% had no opinion
- 3% of respondents believe it should be later with January 2026 as most chosen date to begin enforcement
 - 1 respondent agrees with January 2025 start date
 - 5 respondents agree with January 2026 start date
 - Reasons include:
 - Many gardeners are disadvantaged and need time to transition
 - Should be end-of-life
 - Cost is too high
 - Need more time for technology to improve. Batteries do not last.
 - 70% “discount” is not enough



STARTING JANUARY 1, 2029 LAWNMOWERS, HEDGE TRIMMERS, AND CHAINSAWS WOULD HAVE TO BE ELECTRIC (NON-GAS-POWERED)...DO YOU AGREE THAT JANUARY 1, 2029, IS A REASONABLE DATE TO BEGIN ENFORCEMENT?

- 68% want enforcement sooner for other equipment
 - Possibly July 2025 as a start date





GARDENERS SHARED THAT THEY WANT TO USE ELECTRIC EQUIPMENT FOR HEALTH AND ENVIRONMENTAL IMPROVEMENT, BUT IT CAN INCREASE CUSTOMER COSTS



Does this information impact your support to require only electric gardening equipment?

IN FAVOR (68%)	NEUTRAL (17%)	AGAINST (14%)
Willing to pay more and absorb costs	Rebates should be offered	Should not force electric, should be a choice
Can purchase and store equipment	Offer a buy back program	Batteries pollute as well
Need to “leave the leaves”	Start a battery replacement program	Power grid is not strong enough

[Return to questions](#)

Slide 23

- LRL27** Need to describe this survey question a bit more. I think it was related to what gardeners shared about having to increase costs to customers to transition
Lucky, Rebecca L, 4/13/2023
- LRL28** Font is too small, can it be increased
Lucky, Rebecca L, 4/13/2023
- TL10** I think this table is a bit better :)
Tapia, Liz, 4/14/2023
- LRL33** Yes! do can we get the percentage breakdown for this question? see the XX in the table
Lucky, Rebecca L, 4/14/2023
- TL12** done :)
Tapia, Liz, 4/14/2023



DO YOU HAVE IDEAS TO SHARE IN CONSIDERING THE PROPOSED ZERO EMISSION LANDSCAPE EQUIPMENT REGULATION, SUCH AS HOW TO HELP PREPARE THE COMMUNITY, GARDENERS AND GARDENERS FOR THE TRANSITION OR CHANGES TO THE PROPOSED REQUIREMENTS?



- **Comments:**
 - Need to make electrical grid functional
 - Should have grants available for gardening companies
 - City should purchase equipment for homeowners
 - Need more time for technology to improve
 - The City should subsidize cost of extra manpower needed using electric
 - Allow gardening businesses to use trial equipment to help lower resistance



HOME RENTER RESPONSES



HOME RENTERS



Questions (55 respondents for most questions)	Yes	No	City should not regulate/Do not want to pay more	No Opinion
Do you agree that July 1, 2024, is a reasonable date to begin enforcement?	72%	23%	5%	0
Starting January 1, 2029 lawnmowers, hedge trimmers, and chainsaws would have to be electric...Do you agree 2029, is a reasonable date to begin enforcement?	42%	52%	6%	0
Do you employ or use the services of a gardener or gardener for a Menlo Park property?	38%	62%	NA	NA
Customer costs for gardening services may increase, does this information impact your support to require only electric gardening equipment?	18%	71%	6%	5%
Are you willing to talk to your gardener or gardener to understand customer cost impacts for this transition to electric equipment?	41%	13%	5%	41%
Will you help provide a handout to your gardener?	50%	50%	NA	NA



DO YOU AGREE THAT JULY 1, 2024, IS A REASONABLE DATE TO BEGIN ENFORCEMENT?



- **80% agreed it should be sooner**
- 5% believe it should not be regulated
- 4% had no opinion
- 2% believe it should be later
 - 1 respondent agrees with a January 2025 start date
 - 1 respondent agrees with January 2026 start date



DOES THIS INFORMATION IMPACT YOUR SUPPORT TO REQUIRE ONLY ELECTRIC GARDENING EQUIPMENT?



- 71% say that cost increases would not change their support for gas gardening equipment rules

- Common Comment themes:
 - Need to put environment and health first
 - Cost of batteries and gas is comparable over time
 - Support if properly enforced and homeowners are fined rather than the gardeners
 - Blower noise is annoying and polluting
 - Willing to pay more for all-electric



INFORME DEL PERSONAL

Ayuntamiento

Fecha de la reunión:

6/13/2023

Número de informe del personal:

23-134-CC

Asuntos ordinarios:

Renunciar a la primera lectura e introducir una ordenanza que añade el Capítulo 8.05 del Código Municipal de Menlo Park para exigir el uso de equipos de jardinería de cero emisiones (ZELE).

Recomendación

1. El personal recomienda que el Ayuntamiento renuncie a la primera lectura e introduzca una ordenanza que añade el Capítulo 8.05 del Código Municipal de Menlo Park (equipos de jardinería que funcionan con gasolina) para exigir el uso de equipos de jardinería de cero emisiones (ZELE) en una fecha determinada y derogue el Capítulo 8.07 (sopladores de hojas) y la subsección (C) de la Sección 8.06.040 excepciones para sopladores de hojas que funcionan con gasolina (Anexo A).
2. El personal también solicita orientación sobre el desarrollo de un programa de descuentos para equipos eléctricos de jardinería.

Cuestiones Políticas

Menlo Park regula actualmente los equipos de jardinería que funcionan con gasolina a través de la ordenanza sobre ruido de la ciudad (Capítulo 8.06) y una ordenanza sobre sopladores de hojas (Capítulo 8.07.) A partir del 1 de enero de 2024, los equipos de jardinería que funcionan con gasolina dejarán de venderse en California. Menlo Park también tiene un Plan de Acción Climática 2030 con el objetivo de ser neutro en carbono para 2030. Los equipos de jardinería que funcionan con gasolina utilizan combustibles fósiles que contribuyen al cambio climático e impactan negativamente en la calidad del aire poniendo en peligro la salud de la comunidad y de sus trabajadores.

Antecedentes

Durante muchos años, los miembros de la comunidad han expresado su preocupación por el ruido negativo, la salud y los impactos en la calidad del aire de los sopladores de hojas a gas. En septiembre de 2021, la Comisión de Calidad Medioambiental (EQC) aconsejó al Ayuntamiento que prohibiera el uso de sopladores de hojas accionados por gasolina y, en consecuencia, el Ayuntamiento encargó al personal que elaborara una política al respecto.

En una sesión de estudio del Ayuntamiento celebrada el 18 de octubre de 2022 se presentó una propuesta de política con normas recomendadas para prohibir el uso de cinco tipos de equipos de jardinería que funcionan con gasolina (sopladores de hojas, recortadoras de hilo, cortacéspedes, cortasetos y motosierras) debido a su impacto negativo sobre el medio ambiente y la salud humana en una fecha determinada. El Ayuntamiento encargó al personal que siguiera informando y educando a jardineros y paisajistas sobre las normas propuestas, y que preparara un proyecto de ordenanza para su adopción final

por el Ayuntamiento en 2023.

La Comisión de Calidad Medioambiental (EQC) debatió las normas finales propuestas en su reunión de abril de 2023. La EQC aconseja al Ayuntamiento que adopte las normas propuestas y considere un programa local de incentivos para la compra de equipos eléctricos de jardinería, siempre que la aplicación de las normas y el programa de incentivos no limiten la capacidad de la ciudad para avanzar en el Plan de Acción Climática, en particular para los requisitos de electrificación de los edificios existentes.

Normativa vigente sobre equipos de jardinería

Menlo Park regula actualmente los equipos de jardinería a través de su ordenanza sobre ruido (Capítulo 8.06) limitando su uso a determinadas horas del día, y limita la generación de ruido por encima de los 85 decibelios. Los sopladores de hojas a gasolina tienen restricciones adicionales detalladas en el Capítulo 8.07 del Código Municipal de Menlo Park. Los sopladores de hojas a gasolina también funcionan sólo durante horas específicas, pero a diferencia de otros equipos de jardinería, no pueden superar los 65 decibelios, y deben estar certificados por el Instituto Nacional Americano de Normalización.

Hacer cumplir estas normas ha resultado todo un reto, ya que es difícil responder a tiempo a las quejas que no son de emergencia. A menudo el personal llega cuando el equipo ya no está en uso. Además, medir o verificar con precisión los decibelios resulta problemático.

Análisis

De ser aprobadas por el Ayuntamiento, las normas propuestas se aplicarían a todas las propiedades dentro de la jurisdicción de la ciudad de Menlo Park:

1. A partir del 1 de julio de 2024, quedarán prohibidos los sopladores de hojas y las recortadoras de hilo con motor de gas. Los jardineros, residentes y empresas podrán utilizar equipos eléctricos, de batería o manuales.

Este calendario permite a la comunidad y los jardineros comerciales a la transición con la debida antelación. También se alinea con las comunidades vecinas como la ciudad de Atherton que aprobó en marzo de prohibir sopladores de hojas de gasolina a partir del 1 de julio de 2024. La ciudad de Palo Alto ha prohibido los sopladores de hojas a gasolina desde el año 2000. 12 jardineros respondieron a la encuesta en línea más reciente de la ciudad, y la mayoría indicaron que apoyaban el inicio de la aplicación en julio de 2024. Los miembros de la comunidad que respondieron a la encuesta también estuvieron de acuerdo con julio de 2024 con una mayoría que quiere la aplicación de comenzar mucho antes.

2. A partir del 1 de enero de 2029, quedarán prohibidos los cortacéspedes, cortasetos y motosierras de gas.

En la sesión de estudio de octubre de 2022, el Ayuntamiento solicitó al personal que estudiara la posibilidad de adelantar la fecha de aplicación de este equipamiento. Los resultados de la encuesta en línea a los jardineros fueron variados en cuanto al adelanto de la fecha de aplicación. Sin embargo, la comunidad en general apoyó el adelanto de la fecha. Si la fecha se adelantara, algunos de los encuestados de la comunidad indicaron que julio de 2025 sería lo más ideal.

3. Las horas de funcionamiento permitidas seguirán siendo las mismas para los equipos eléctricos: de 8

a.m. a 6 p.m. horas de lunes a viernes. Los residentes podrán utilizar equipos eléctricos los sábados, domingos y festivos en horario de 9 a.m. a 5 p.m.

4. Las infracciones estarían vinculadas al propietario y no a la empresa de jardinería.

En el período de transición hasta la fecha de aplicación del 1 de julio de 2024, el personal estudiará y considerará opciones de aplicación. El personal seguirá llevando a cabo actividades de divulgación y educación para apoyar a los jardineros comerciales y miembros de la comunidad antes del inicio de la aplicación para lograr mayores tasas de cumplimiento.

Legislación e incentivos de California

A partir del 1 de enero de 2024, los equipos de jardinería propulsados por gasolina (así como otros equipos pequeños con motor todoterreno) estarían prohibidos en el punto de venta¹. Esta ley no regula los equipos existentes ni su uso. En noviembre de 2022, el estado inició un programa de descuentos en equipos eléctricos de jardinería para jardineros y paisajistas comerciales. El presupuesto del programa comenzó con 24 millones de dólares y está dirigido principalmente a pequeñas empresas. Los fondos se siguen gastando a gran velocidad. Hasta la fecha quedan 10 millones de dólares. El programa permite a los jardineros comerciales adquirir equipos eléctricos o a baterías con un descuento del 70% sobre el precio de venta al público. El incentivo no está disponible para residentes o empresas que no se dediquen a la jardinería.

Otras comunidades con normas sobre equipos de jardinería a gasolina

Muchos gobiernos locales del Área de la Bahía ya han prohibido el uso de equipos de jardinería que funcionen con gas, principalmente sopladores de hojas. Entre los que se han investigado a efectos de la elaboración de una política figuran:

- La ciudad de Atherton adoptó recientemente una prohibición de sopladores de hojas que comenzará en julio de 2024.
- Palo Alto prohibió los sopladores de hojas de gasolina en los barrios residenciales en 2000
- Los Altos prohibió los sopladores de hojas de gasolina en 1991
- Los Gatos prohibió los sopladores de hojas a gasolina en 2014
- Portola Valley prohibió los sopladores de hojas a gasolina en 2019 y ofreció un programa de incentivos por tiempo limitado de cambio de sopladores de hojas a gasolina por eléctricos
- Berkeley prohibió los sopladores de hojas de gasolina en 1990
- Oakland prohibió los sopladores de hojas y las recortadoras de hilo de gasolina en 2021.
- Ocho ciudades del condado de Marin también han prohibido el uso de sopladores de hojas de gasolina.

Efectos sobre la salud y la calidad del aire de los equipos de jardinería

La investigación sobre los daños medioambientales causados por los equipos de jardinería que funcionan con gas, especialmente los sopladores de hojas, es exhaustiva. Según la Junta de Recursos Atmosféricos de California (California Air Resources Board), el funcionamiento de un soplador de hojas comercial de mochila accionado por gasolina durante sólo una hora emite una contaminación causante de smog comparable a la de conducir un turismo ligero nuevo unos 1.100 kilómetros, aproximadamente la distancia de Los Ángeles a Denver (más de 15 horas de conducción).

¹ <https://ww2.arb.ca.gov/news/carb-approves-updated-regulations-requiring-most-new-small-road-engines-be-zero-emission-2024>

Los equipos de jardinería accionados por gasolina emiten altas concentraciones de óxidos de nitrógeno (NOx), gases orgánicos reactivos (ROG) y partículas (PM), lo que crea riesgos para la salud de los operarios y del público. Esto es especialmente preocupante porque los trabajadores que realizan este trabajo proceden históricamente de comunidades desfavorecidas. La Junta de Recursos Atmosféricos de California estima que el smog producido por los pequeños motores todoterreno (SORE) en el estado superará el smog producido por todos los coches de California en los próximos años, contribuyendo a la mala calidad del aire en el estado. Alrededor del 70% de los SORE son equipos de jardinería. Los Anexos B y C proporcionan un análisis en profundidad de los impactos de los equipos de jardinería de gas.

Objetivos del Plan de Acción Climática 2030

Aunque los sopladores de hojas a gasolina representan por sí solos un pequeño porcentaje de las emisiones de gases de efecto invernadero que contribuyen al cambio climático, exigir que todos los equipos de jardinería sean de cero emisiones produciría mayores reducciones. Es igualmente importante reconocer que algunas fuentes de emisiones como los equipos de jardinería son difíciles de medir y no se recogen en los inventarios locales de gases de efecto invernadero, pero siguen siendo un aspecto importante para alcanzar los objetivos de acción climática. Los equipos de jardinería que funcionan con gas utilizan gasolina.

La quema/uso de un galón de gasolina emite alrededor de 20 libras de dióxido de carbono (gas de efecto invernadero que contribuye al cambio climático causado por el hombre). Prohibir el uso de equipos de jardinería que funcionen con gasolina dentro de los límites de la ciudad de Menlo Park reduciría inmediatamente las emisiones de gases de efecto invernadero procedentes de esta fuente y mejoraría en consecuencia la calidad general del aire.

Rendimiento y consideraciones de los equipos de jardinería eléctricos y de gas

Algunos equipos de jardinería accionados por gasolina siguen siendo más potentes que sus versiones eléctricas, especialmente en el caso de los sopladores de hojas. Sin embargo, si se utilizan de forma eficiente, los equipos eléctricos de jardinería podrían ser comparables, como se señala en el estudio de caso que figura a continuación. Para uso individual o privado, los consumidores afirman que los equipos eléctricos de jardinería suelen funcionar adecuadamente y cumplir sus expectativas.

Para un jardinero comercial, puede ser necesaria una infraestructura adicional, como una actualización del cuadro eléctrico (3.500 dólares) y la instalación de circuitos dedicados de 20 amperios (entre 400 y 800 dólares). Los cargadores inteligentes pueden ayudar a reducir la carga eléctrica y cuestan 650 dólares o 200 dólares si se utiliza el programa de descuentos estatales por tiempo limitado. Cada cargador inteligente puede cargar hasta cuatro baterías; se pueden añadir más cargadores inteligentes si es necesario cargar más de cuatro baterías. Los comentarios de los jardineros indican que las baterías tienden a tener que sustituirse en uno o dos años, lo que puede suponer una inversión considerable que se suma a los costes del cliente. Consulte el Anexo D para obtener información adicional sobre las diferencias de rendimiento, coste y comodidad entre los sopladores de hojas eléctricos y de gas.

Estudio de caso: EnviroViews

El personal entrevistó a EnviroViews, que consiguió que el 80% de su equipo de jardinería pasara de ser de gasolina a ser eléctrico (cortasetos, cortacéspedes, sopladores de hojas, recortadoras de hilo, etc.). EnviroViews es una empresa familiar latina de segunda generación en el Área de la Bahía con unos 30

empleados. Prestan servicios de jardinería a grandes complejos residenciales. EnviroViews comenzó su transición en 2020, pilotando equipos eléctricos con una cuadrilla y ampliándolos a las seis cuadrillas en dos años. La transición requirió una actualización de los paneles (3.500 dólares) y la compra de cargadores inteligentes. Si los equipos se utilizaban de forma eficiente, una batería por cada equipo podía durar todo el día. Hubo que volver a formar a los empleados sobre cómo y cuándo utilizar los sopladores de hojas. Sus tarifas de cliente aumentaron un 10% para seguir invirtiendo en formación, equipos y baterías. No necesitaron contratar mano de obra adicional para completar los trabajos. También indicaron que pudieron ahorrar significativamente en costes de combustible.

Antes de la transición, gastaban 1.600 dólares al mes por cuadrilla en alimentar con gasolina los equipos de jardinería, y ahora gastan unos 275 dólares al mes en electricidad para todas las cuadrillas. El retorno de su inversión fue de dos años. La grabación de la entrevista está en inglés y español en la página web de la ciudad (Anexo G).

Alcance y resultados de los jardineros comerciales de Menlo Park

En octubre de 2022, el Ayuntamiento ordenó al personal que hablara personalmente con los jardineros sobre las normas propuestas. De noviembre de 2022 a febrero de 2023, el personal recorrió la ciudad para hablar personalmente con jardineros y paisajistas sobre las normas propuestas y el programa de descuentos para equipos eléctricos de jardinería. Se elaboraron folletos en inglés y español con información local sobre dónde y cómo obtener equipos (Anexo E). Los voluntarios de la comunidad también ayudaron a distribuir esta información.

Otras actividades de divulgación fueron:

- Dos eventos de fin de semana en el mercado Soleska de Belle Haven con personal de Obras Públicas de habla hispana
- Dos seminarios web que incluyeron la entrevista con EnviroViews y un panel de distribuidores locales de equipos de jardinería que ofrecen equipos eléctricos con descuento.
 - El personal se puso en contacto con 300 jardineros de Menlo Park con una carta, un correo electrónico y mensajes de texto que incluían información sobre las normas propuestas, una encuesta en línea, un seminario web y el folleto de descuentos para equipos eléctricos (Anexo E).
 - La asistencia a los seminarios web en directo fue escasa. Los enlaces a las grabaciones se enviaron a los jardineros por correo electrónico y SMS, y recibieron más visitas/participación.
- Promoción de un acto en abril con la American Green Zone Alliance en el que se exhibieron equipos eléctricos de jardinería en Atherton.
- Una encuesta en línea para conocer la opinión de los jardineros. Respondieron 12 jardineros y los resultados figuran en el Anexo F.

Algunas de las conclusiones más importantes que se extraen de las reuniones individuales son las siguientes:

- Los jardineros comerciales de la ciudad suelen ser empresas familiares muy pequeñas (menos de cinco empleados).
- Las preocupaciones identificadas fueron:
 - Los clientes no están dispuestos a soportar el coste añadido que les supondría la transición
 - Barreras lingüísticas en la comunicación de nuevos costes
 - Tiempo y costes adicionales para cargar y sustituir las baterías
 - Elevado coste de adquisición de los equipos
 - Tiempo adicional para completar las tareas debido a equipos eléctricos de menor

- rendimiento/menos potentes.
- La aplicación debe ser coherente para mantener precios competitivos
- Desear saber si la Ciudad utiliza equipos eléctricos para sus actividades de jardinería y paisajismo.
- Sus familiares expresaron su preocupación por los efectos sobre la salud del uso de equipos de jardinería que funcionan con gas.

Si el Ayuntamiento adopta una norma, el personal podría ayudar a proporcionar recursos tanto a los clientes como a los jardineros sobre cómo apoyarse mutuamente durante la transición o cómo reducir la necesidad de equipos motorizados, como utilizar los equipos de forma más eficiente, dejar que las hojas caigan durante el otoño y reducir la superficie de césped. No obstante, se prevé que el coste para el cliente aumente debido a otras consideraciones descritas en este informe que deben tenerse en cuenta para llevar a cabo la transición.

Alcance comunitario y resultados

Se utilizaron las siguientes herramientas para interactuar con los residentes y las empresas de jardinería no comerciales:

- Página web para jardineros comerciales y la comunidad (menlopark.gov/zele)
- Una encuesta en línea. Los resultados se resumen en el Anexo F.
- Se publicaron dos artículos en el boletín informativo de la ciudad (octubre de 2022 y febrero de 2023).
- Se publicaron dos artículos en el boletín de la factura de residuos (enero y abril de 2023)
 - 5.013 eran facturas electrónicas y 3.818 eran facturas en papel
- Se enviaron 19.797 tarjetas postales en inglés y español a empresas y particulares.
- Se celebraron dos seminarios web específicos para el público (marzo de 2023)
 - La asistencia fue baja durante los seminarios web en directo, pero la grabación recibió más visitas/participación.
- Se celebraron dos actos de divulgación de fin de semana en el mercado Soleska de Belle Haven (marzo y abril de 2023).
- Un acto de divulgación en el mercado agrícola (abril de 2023)

248 propietarios y 63 inquilinos respondieron a la encuesta. Alrededor del 70% apoya la aplicación de normas para sopladores de hojas y recortadoras de hilo a partir de julio de 2024. Aproximadamente la mitad apoya la regulación de otros equipos de jardinería que funcionan con gasolina (cortacéspedes, cortasetos y motosierras). Alrededor del 70% afirma estar dispuesto a pagar un aumento de los costes de los servicios de jardinería para ayudar a los jardineros en la transición.

También se solicitó un programa de incentivos/reembolsos para equipos eléctricos de jardinería destinado a residentes y empresas que no se dediquen a la jardinería, ya que las normas crearían dificultades económicas. Muchos también abogaron por ofrecer un incentivo/reembolso de Menlo Park para jardineros junto con el programa estatal de descuento en equipos.

Durante la divulgación surgieron dudas sobre cómo deshacerse de los equipos de gasolina antes del final de su vida útil y sobre si las baterías pueden reciclarse. En la actualidad, existe un mercado limitado para el reciclaje de baterías, el mercado de reciclaje de baterías de iones de litio está creciendo y la normativa está aumentando para fomentar una economía circular que permita fabricar baterías que puedan reciclarse fácilmente al final de su vida útil. Las baterías no pueden depositarse en el flujo normal de residuos y deben tratarse como material peligroso. El Centro Público de Reciclaje Shoreway de San Carlos acepta baterías. Para deshacerse de los equipos de gas, el personal estudiará opciones y un posible programa de

recogida.

Posible programa de descuentos

El Ayuntamiento podría considerar la posibilidad de ofrecer descuentos para compensar el coste de la transición a equipos de jardinería con cero emisiones. Dado que los resultados de la encuesta comunitaria indicaron que aproximadamente el 67% de los propietarios de viviendas utilizan servicios de jardinería, los jardineros que completen la transición serán fundamentales para alcanzar el objetivo deseado por la comunidad en cuanto a calidad del aire, ruido y salud de los trabajadores. Se espera que los fondos del programa estatal de descuentos se agoten en los próximos meses. Los miembros de la comunidad también están preocupados por el elevado coste de la transición. Se recomienda el siguiente programa de descuentos para ayudar a la comunidad y a sus jardineros a cumplir con la fecha de entrada en vigor de julio de 2024.

Categoría de posible descuento	Importe	Fecha de Inicio
Jardineros comerciales que trabajan en Menlo park	Hasta 1.000 dólares por la nueva compra de equipos eléctricos de jardinería cubiertos, baterías adicionales o un sistema de gestión de la energía; el descuento puede cubrir hasta el 100% del precio de compra de los equipos, pero no superaría los 1.000 dólares por empresa/jardinero.	Comienza después de que se hayan gastado los fondos estatales para equipos eléctricos de jardinería con descuento para jardineros comerciales.
Residentes de Menlo Park y empresas no relacionadas con la jardinería	Hasta 250 dólares para equipos eléctricos de jardinería de nueva adquisición que incluyan: soplador de hojas, cortasetos, recortadora de hilo, motosierra o cortacésped. El reembolso puede cubrir hasta el 100% del precio de compra del equipo, pero no excederá de 250 dólares en total por dirección y año.	Comienza el primer trimestre de 2024, seis meses antes del inicio de la aplicación.

El Ayuntamiento podría considerar ampliar el programa de descuento hasta tres años. En el presupuesto propuesto para el año fiscal 2023-24 se incluye un total de 35.000 dólares para el primer año del programa de descuento como mejora del nivel de servicio. Nota: A largo plazo, se espera que los costes de los equipos disminuyan debido a las economías de escala derivadas del requisito estatal de que los fabricantes fabriquen y vendan únicamente equipos eléctricos de jardinería en California.

Redwood City y la ciudad de San Mateo ofrecen descuentos a los jardineros y miembros de la comunidad, pero no tienen reglas para el uso de equipos de jardinería de gas. La ciudad de Atherton ofrecerá un programa de descuento local para sopladores de hojas eléctricos como parte de la reciente norma que han adoptado. El posible descuento de Menlo Park coincide con el de otras ciudades para los residentes. Sin embargo, es mayor para los jardineros comerciales debido a las consideraciones de costes adicionales para la transición, tales como actualizaciones de paneles, circuitos dedicados, cargadores inteligentes y baterías adicionales.

En el caso de los jardineros comerciales, el descuento propuesto podría cubrir entre el 20% y el 60% de los costes de transición a sopladores de hojas y recortadoras de hilo eléctricos que serían necesarios para julio de 2024. La cobertura de los costes depende de otros elementos adicionales que puedan ser necesarios para la transición (por ejemplo, baterías adicionales, circuitos dedicados, sistema de gestión de energía,

etc.) Es importante señalar que muchos jardineros comerciales ya tienen sopladores de hojas eléctricos debido a los requisitos de otras comunidades. El descuento podría motivar a los jardineros a realizar antes la transición a otros equipos.

Para los residentes y las empresas que no se dediquen a la jardinería, el descuento cubriría entre el 80% y el 100% del coste de los sopladores eléctricos de hojas y las recortadoras de hilo.

Tras la adopción de la ordenanza, divulgación, apoyo y administración del programa de incentivos propuesto

Será necesaria una labor continua de divulgación, educación, administración de incentivos y apoyo a la transición para los jardineros comerciales y los miembros de la comunidad antes de la entrada en vigor a partir de julio de 2024.

Calendario de Transición de las Operaciones Municipales

El Ayuntamiento y miembros del público solicitaron que la ciudad adoptara una posición de liderazgo en este asunto mediante la transición a equipos de jardinería eléctricos antes de las fechas de aplicación de julio de 2024 y enero de 2029. Además, el Ayuntamiento ordenó al personal en abril de 2021 que se centrara en ampliar un programa piloto para la transición de los equipos de jardinería y paisajismo a eléctricos en 2021-22. También se observó en la divulgación que los jardineros tenían curiosidad y observaban si la ciudad estaba realizando la transición a equipos de jardinería eléctricos.

El presupuesto propuesto para el año fiscal 2023-24 incluye la transición a sopladores de hojas eléctricos y recortadoras de hilo en el próximo año fiscal, pendiente de la aprobación del presupuesto por parte del Ayuntamiento. Se prevé que los equipos restantes (cortacéspedes de empuje y cortasetos) se sustituyan en otoño de 2025; las motosierras también se sustituirán en este plazo, siempre y cuando se disponga de equipos que puedan utilizarse para mantener las operaciones de la ciudad durante tormentas invernales intensas y frecuentes, como las que se produjeron en la temporada de lluvias de 2022-23.

La ciudad también emplea a contratistas para realizar actividades de jardinería y paisajismo. El personal municipal ha colaborado con estos contratistas para animarlos a adoptar cuanto antes los equipos ZELE y darles a conocer los programas de incentivos disponibles para reducir costes e impactos. La Ciudad no puede exigir o imponer requisitos adicionales en estos contratos hasta que se soliciten nuevas propuestas o licitaciones cuando expiren los acuerdos. Sin embargo, la Ciudad también ha estado incorporando el requisito de utilizar equipos eléctricos en los nuevos acuerdos y licitaciones de construcción desde principios de 2023. Estos nuevos requisitos pueden dar lugar a aumentos en los precios durante la fase de transición.

Impacto en los recursos de la ciudad

Es posible que se necesiten presupuesto y recursos adicionales para el programa de descuento y las actividades de aplicación, y se incluirían en los próximos preparativos presupuestarios de los próximos años. Se necesitaría un total de 35.000 dólares para el programa de descuento de equipos eléctricos de jardinería en el año fiscal 2023-24 si lo aprueba el Ayuntamiento. El Departamento de Obras Públicas también utiliza equipos de jardinería para el mantenimiento de parques y espacios públicos. El coste estimado de la transición de equipos de jardinería de gasolina a eléctricos es de 189.600 dólares. En la actualidad, el distrito de aire u otros organismos no ofrecen incentivos para que la ciudad realice la transición. Es importante señalar que los equipos de jardinería de gasolina no estarán disponibles para la venta a partir del 1 de enero de 2024 y los costes relacionados con la transición comenzarán a incurrirse

pronto como resultado por la Ciudad, sus contratistas y jardineros privados.

Revisión medioambiental

Esta acción no es un proyecto en el sentido de la Ley de Calidad Ambiental de California (CEQA) Directrices § § 15378 y 15061 (b) (3), ya que no dará lugar a ningún cambio físico directo o indirecto en el medio ambiente.

Aviso público

La notificación pública se realizó mediante la publicación del orden del día, con los puntos del orden del día enumerados, al menos 72 horas antes de la reunión. También se incluyó información sobre este punto del orden del día y la fecha de la reunión:

- Actualización de la página web del proyecto con información sobre la reunión del 6 de junio en la que se notificó a quienes se suscribieron a las actualizaciones sobre este tema.
- El 2 de junio se envió una carta a los jardineros comerciales de Menlo Park, y el 6 de junio se les envió un correo electrónico y un mensaje de texto con información sobre la reunión.
- La información también se publicó en el boletín semanal de la ciudad el 5 de junio.

Archivos adjuntos

- A. Ordenanza para añadir el Capítulo 8.05 "Equipos de Jardinería a Gasolina" al Código Municipal de Menlo Park.
- B. Hoja informativa de la Junta de Recursos Atmosféricos de California sobre pequeños motores todoterreno (SORE)
- C. Informe de la Junta de Recursos Atmosféricos de California a la Legislatura de California sobre los posibles efectos de los sopladores de hojas en la salud y el medio ambiente
- D. Diferencias de rendimiento, coste y comodidad entre los sopladores de hojas eléctricos y de gas
- E. Carta a los jardineros con el Folleto de Descuentos en Equipos Eléctricos de Jardinería de Menlo Park
- F. Resumen de los resultados de la encuesta
- G. Hyperlink – ZELE webpage: menlopark.gov/zele

Informe elaborado por:

Rebecca Lucky, Directora de Sostenibilidad

CIUDAD DE MENLO PARK

ORDENANZA Nº _____

ORDENANZA DE LA CIUDAD DE MENLO PARK POR LA QUE SE AÑADE EL CAPÍTULO 8.05 AL CÓDIGO MUNICIPAL DE MENLO PARK PARA PROHIBIR EL USO DE EQUIPOS DE JARDINERÍA QUE FUNCIONEN CON GASOLINA, SE DEROGA EL CAPÍTULO 8.07 Y SE DEROGA LA SUBSECCIÓN (C) DE LA SECCIÓN 8.06.040

CONSIDERANDO que la ciudad de Menlo Park, así como el Estado de California, han avanzado en la reducción de nuestra huella de carbono; y

CONSIDERANDO que, en 2019, el Ayuntamiento declaró una emergencia climática (Resolución n.º 6535) y adoptó el Plan de Acción Climática 2030 (PAC) con el objetivo de que Menlo Park sea neutro en carbono para 2030; y

CONSIDERANDO que los equipos de jardinería a gasolina emiten gases de efecto invernadero y otros contaminantes, como monóxido de carbono, óxidos nitrosos e hidrocarburos, que son perjudiciales para la salud humana; y

CONSIDERANDO que las investigaciones de la Junta de Recursos Atmosféricos de California han determinado que el uso de pequeños motores todoterreno de gasolina, incluidos los sopladores de hojas, es perjudicial para el medio ambiente, ya que emiten altos niveles de contaminantes atmosféricos como óxidos de nitrógeno y otros gases orgánicos reactivos; y

CONSIDERANDO que muchos equipos de jardinería que funcionan con gasolina producen ruidos que superan los niveles establecidos en la ordenanza sobre ruidos de Menlo Park, ya que un soplador de hojas de mochila de 2 tiempos puede emitir más de 90 decibelios, lo que puede provocar pérdida de audición; y

CONSIDERANDO que, el 18 de octubre de 2022, el Ayuntamiento, en respuesta a las preocupaciones de la comunidad sobre los efectos negativos de los sopladores de hojas accionados por gasolina sobre el ruido, la salud y la calidad del aire, ordenó al personal que preparara un proyecto de ordenanza que regulara cinco tipos de equipos de jardinería accionados por gasolina (sopladores de hojas, cortadoras de hilo, cortacéspedes, cortasetos y motosierras) para su adopción final por el Ayuntamiento en 2023; y

CONSIDERANDO que, en la actualidad, la Ciudad regula los equipos accionados por gasolina a través de su ordenanza sobre ruido y una ordenanza sobre sopladores de hojas; y,

CONSIDERANDO que los modernos equipos de jardinería eléctricos son silenciosos y no producen emisiones, y que su adquisición y funcionamiento pueden resultar menos costosos si se hace un uso eficiente de los equipos y se aprovechan los incentivos disponibles; y

CONSIDERANDO que el Ayuntamiento pretende reducir las emisiones de efecto invernadero y la contaminación atmosférica regulando el uso de equipos de jardinería que funcionan con gasolina; y

CONSIDERANDO que, en 2021, el Estado de California aprobó el AB 1346 que prohíbe la venta de nuevos sopladores de hojas, cortasetos, cortacéspedes y motosierras de gasolina para el 1 de enero de 2024;

AHORA, POR LO TANTO, EL AYUNTAMIENTO DE LA CIUDAD DE MENLO PARK POR LA PRESENTE ORDENA LO SIGUIENTE:

**SECCIÓN 1. POR LA QUE SE AÑADE AL CÓDIGO MUNICIPAL EL
CAPÍTULO 8.05 "EQUIPOS DE JARDINERÍA A GASOLINA"**

Un nuevo capítulo 8.05 titulado "Equipos de jardinería a gasolina" se añade al Código Municipal de Menlo Park (MPMC) para leer en su totalidad como sigue:

8.05.010 Definiciones

A. Las siguientes palabras y frases, siempre que se utilicen en este capítulo, se interpretarán como se establece en esta sección:

"Equipo de jardinería accionado eléctricamente": cualquier equipo mecánico de jardinería utilizado para el mantenimiento del paisaje que funcione por medios eléctricos, incluidos, entre otros, los equipos accionados por batería y los equipos inalámbricos recargables.

"Equipo de jardinería a gasolina": cualquier equipo mecánico utilizado para el mantenimiento del paisaje que funcione con un motor de combustión interna que utilice gasolina, alcohol u otro líquido o fluido gaseoso, incluidos, entre otros, sopladores de hojas, recortadora de hilo, cortacéspedes, cortasetos y motosierras.

"Equipo de jardinería": soplador de hojas, recortadora de hilo, cortacésped, cortasetos y motosierra.

"Soplador de hojas": máquina utilizada para soplar, desplazar o aspirar hojas, suciedad y/o residuos.

"Recortadora de hilo": máquina utilizada para cortar hierba, maleza pequeña y cubierta vegetal.

"Cortacésped": máquina que utiliza una o varias cuchillas giratorias para cortar una superficie de hierba a una altura uniforme.

"Cortasetos": máquina utilizada para recortar setos y/o cualquier límite formado por arbustos.

"Motosierra": máquina con un conjunto de dientes unidos a una cadena giratoria impulsada a lo largo de una barra guía que se utiliza para talar, desramar, desramar o podar árboles y otra vegetación.

Por "pequeños motores todoterreno" se entiende cualquier dispositivo que utilice un motor de encendido por chispa alimentado por gasolina con una potencia nominal igual o inferior a 19 kilovatios (25 caballos de potencia), incluidos, entre otros, los sopladores de hojas. Los motores de esta

categoría se utilizan en equipos de césped y jardín, así como en otros equipos eléctricos de exterior y vehículos especiales.

8.05.020 Prohibición de equipos de jardinería a gasolina

A. A partir del 1 de julio de 2024, será ilegal que cualquier persona opere o autorice la operación de, permita o dirija a otro que se dedique a la operación de cualquier soplador de hojas y recortadora de hilo a gasolina dentro de los límites de la ciudad.

B. A partir del 1 de enero de 2029, será ilegal que cualquier persona opere o autorice la operación de, permita o dirija a otro que se dedique a la operación de cualquier cortadora de césped, cortasetos y motosierras que funcionen con gasolina.

8.05.030 Equipos de jardinería accionados eléctricamente - Días y horas de funcionamiento permitidos

A. A partir del 1 de julio de 2024, será ilegal que cualquier persona opere o autorice la operación de, permita o dirija a otro que se dedique a la operación de cualquier equipo de jardinería accionado eléctricamente dentro de los límites de la ciudad, excepto durante las siguientes horas:

De lunes a viernes: de 8 a.m. a 6 p.m.

Fines de semana y festivos: de 9 a.m. a 5 p.m.

8.05.040 Límites de ruido aplicables

Nada de lo aquí dispuesto sustituirá, alterará o afectará en modo alguno a los reglamentos y leyes de la Ciudad en relación con los límites de ruido, incluyendo, pero no limitado a los establecidos en el Capítulo 8.06 del MPMC.

8.05.050 Infracciones

Las infracciones de este capítulo se aplicarán contra el propietario del inmueble que haya utilizado equipos de jardinería a gasolina o haya contratado, empleado o contratado los servicios de una persona o empresa que utilice equipos de jardinería a gasolina.

Las infracciones de este Capítulo se considerarán una molestia per se y estarán sujetas a citaciones administrativas de conformidad con el Capítulo 1.15 del MPMC, y a cualquier otro recurso disponible por ley o en equidad, incluyendo, pero sin limitarse a acciones o procedimientos para reducir las infracciones de este Capítulo. Dichos recursos se sumarán a cualquier otra sanciones y recursos judiciales y administrativos a disposición de la ciudad en virtud de capítulos 1. 14 y 1.12 de este código.

SECCIÓN 2.LA SECCIÓN 8.06.020 DEL CÓDIGO MUNICIPAL DE MENLO PARK SE MODIFICA PARA ENMENDAR LA DEFINICIÓN DE

"EQUIPO MOTORIZADO" COMO SE INDICA A CONTINUACIÓN (LAS ADICIONES EN SUBRAYADO, LAS SUPRESIONES EN TACHADO):

"Equipo motorizado" significa un dispositivo motorizado accionado por electricidad o combustible utilizado para la construcción, demolición y mantenimiento o reparación de la propiedad o del paisaje. El equipo motorizado incluye, pero no se limita a: equipos de jardinería accionados eléctricamente, cortadoras de césped, setos, barredoras de estacionamiento, sierras, lijadoras, motores, bombas, generadores, sopladores, astilladoras de madera, aspiradoras, taladros y pistolas de clavos (pero excluyendo específicamente sopladores de hojas con motor de combustión interna).

SECCIÓN 3. QUEDA DEROGADO EN SU TOTALIDAD EL CAPÍTULO 8.07 DEL MPMC SOBRE SOPLADORES DE HOJAS.

SECCIÓN 4. QUEDA DEROGADA LA SUBSECCIÓN (C) DE LA SECCIÓN 8.06.040 EXCEPCIONES DEL CÓDIGO MUNICIPAL DE MENLO PARK.

SECCIÓN 5. EXENCIÓN CEQA

El Ayuntamiento considera, en virtud del Título 14 del Código de Reglamentos de California, Sección 15061(b)(3), que esta ordenanza está exenta de los requisitos de la Ley de Calidad Medioambiental de California (CEQA) en el sentido de que no se trata de un Proyecto que pueda causar un efecto significativo en el medio ambiente. (14 Cal. Code Regs. § 15061(b)(3)). Además, el Ayuntamiento considera, en virtud del Título 14 del Código de Reglamentos de California, Sección 15308, que esta ordenanza está exenta de los requisitos de la CEQA, ya que se trata de una medida adoptada para la protección del medio ambiente.

SECCIÓN 6. SEVERABILIDAD

Si alguna sección, subsección, oración, cláusula o frase de esta Ordenanza es considerada inválida por cualquier razón, tal decisión no afectará la validez de las partes restantes de esta Ordenanza. El Ayuntamiento declara por la presente que habría adoptado la Ordenanza y cada sección, subsección, oración, cláusula o frase de la misma, independientemente del hecho de que una o más secciones, subsecciones, oraciones, cláusulas o frases sean declaradas inválidas.

SECCIÓN 7. PUBLICACIÓN Y ENVÍO

De acuerdo con la Sección 33963 del Código de Gobierno, la secretaria municipal hará que esta ordenanza se publique una vez dentro de los quince (15) días posteriores a su aprobación y adopción junto con los nombres de los miembros del concejo municipal que votaron a favor y en contra de la ordenanza en un periódico de circulación general en la Ciudad de Menlo Park.

El Ayuntamiento de la Ciudad de Menlo Park, California, presentó la ordenanza anterior el ____ de ____ de 20__ y la adoptó en una reunión ordinaria celebrada el ____ de ____ de 20__ por la siguiente votación:

A favor:

En contra:

Ausentes:

Abstenciones:

CERTIFICA:

Judi A. Herren, secretaria municipal

Jen Wolosin, alcalde

A photograph of a grassy field with a wooden fence in the foreground. Two people are visible in the distance on a path. The sky is overcast.

PROPOSED GARDENING EQUIPMENT RULES AND LOCAL INCENTIVE PROGRAM

Rebecca Lucky, Sustainability Manager



AGENDA

- Recommendation
- Proposed rules
- Performance of electric gardening equipment
- Outreach results
- Case study of professional gardener transition
- Potential Menlo Park rebate program
- Next steps





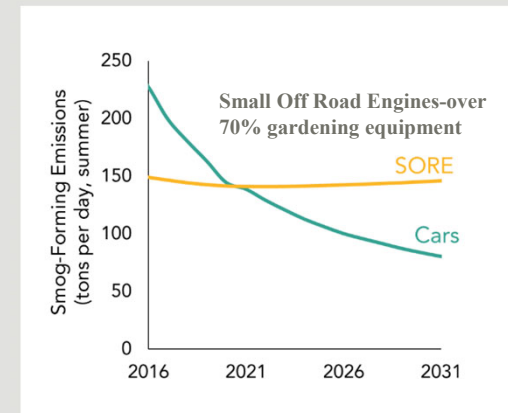
STAFF RECOMMENDATION

- City Council waive the first reading and introduce an ordinance adding Menlo Park Municipal Code Chapter 8.05 (gasoline powered landscape equipment) to require use of zero emission landscaping equipment (ZELE) as proposed
- Direction on the development of an electric landscaping equipment rebate program that can be brought back for approval on June 27
- The EQC advises the City Council to adopt the proposed rules and consider an incentive program to purchase electric landscaping equipment



CONSIDERATIONS FOR DEVELOPING PROPOSED RULES

- Environmental Quality Commission recommended prohibiting gas-powered leaf blowers (September 2021)
- City Council directed drafting rules for five types of gas gardening equipment to consider for adoption in 2023 and focus on direct outreach to gardeners (October 2022)
- The California Air Resources Board will prohibit the sale (not use) of new gas-powered gardening equipment starting January 1, 2024

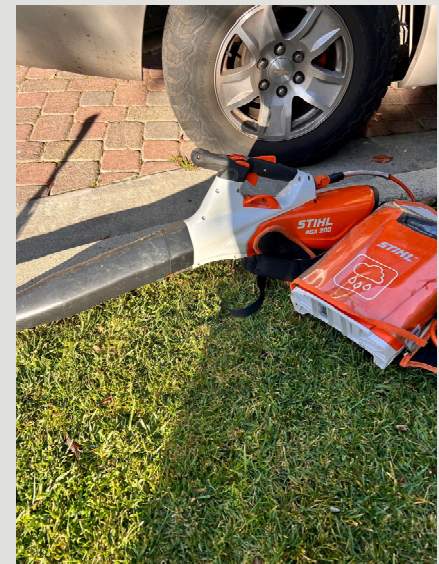


Source – California Air Resources Board



PROPOSED MENLO PARK RULES

- **July 1, 2024:** gas-powered **leaf blowers** and **string trimmers** would be prohibited
- **January 1, 2029:** gas-powered **walk behind lawnmowers**, **hedge trimmers** and **chainsaws** would be prohibited
- Hours of allowable operation would remain the same for electric powered equipment
- Violations would be tied to the property owner





GAS AND ELECTRIC PERFORMANCE



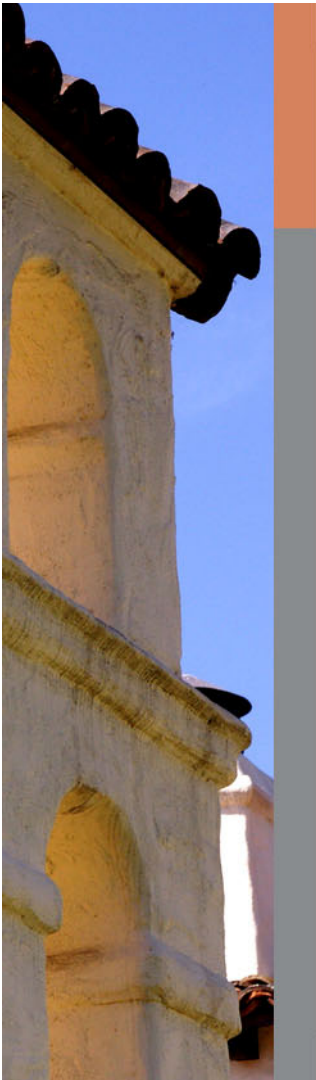
- For private use, electric gardening equipment generally performs similar to gas-powered equipment
- Professional gardeners will have further investment and time considerations:
 - Efficient use of equipment
 - May require extra batteries
 - Electric panel upgrades and dedicated circuits



CASE STUDY: ENVIROVIEWS

- 80% of equipment is electric and used by all crews
- Transition involved:
 - Retrained employees to use equipment more efficiently
 - No additional labor was required to complete jobs
 - One batter per piece of equipment was sufficient
 - Electric panel upgrade, wiring, and power management systems
- Customer rates increased 10% for ongoing training and investment in batteries and electric equipment
- Did save on operational costs:
 - \$1,600 per crew per month in gasoline costs
 - \$275 per month in electricity costs for ALL crews
- Return on investment was 2 years



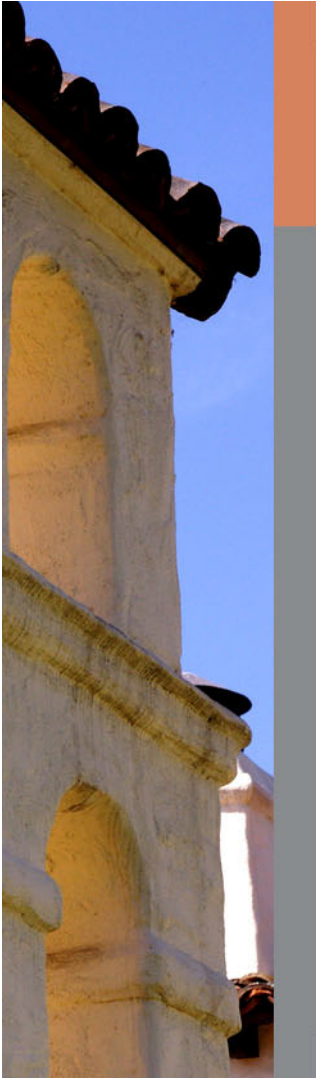


OUTREACH METHODS TO GARDENERS



- Active canvassing on bike and in vehicles a few times a week from November 2022 to February 2023
- Two live webinars in English and Spanish
- 250+ letters, emails, and text messages
- Online survey
- Two Saturday events at Soleska Market
- Promoted electric gardening equipment event in Atherton
- Community volunteers have been a big help!





PROFESSIONAL GARDENER RESULTS

- Many already have electric equipment because they work in other communities with rules, but still avoid using the equipment where possible due to:
 - Battery life is short- 20 minutes if used on turbo speed
 - Purchasing multiple batteries is expensive and require replacement every few years
 - Electric equipment is less powerful and takes longer to complete a job
- Managing customers expectations on the cost to transition
- Ability to effectively enforce rules to maintain competitive pricing
- Unaware of the discount electric equipment program
- Aware that they will need to transition at some point in the future
- 12 gardeners responded to the online survey, and majority did agree with enforcement starting on July 1, 2024 for leaf blowers and string trimmers, but did not support regulating chainsaws, lawnmowers, and hedge trimmers in 2029



COMMUNITY SURVEY RESULTS


- 311 responses
- Majority of respondents:
 - Use hired gardening services
 - Supported regulating leaf blowers and string trimmers July 2024
 - Willing to pay more for gardening services
 - Shared the discount electric equipment informational flyer
- Half of the respondents supported regulating lawnmowers, hedge trimmers, and chainsaws in 2029
- Requested a local incentive program to purchase electric gardening equipment





ELECTRIC EQUIPMENT DISCOUNT PROGRAM


- \$24 million in incentives for professional gardeners only
 - Started November 2022
 - \$10 million left as of June 2023
 - Californiacore.org or menlopark.gov/zele



Regular Price
Precio regular
\$699.99

Discounted price
Precio descontado
\$299.99


EGO
Backpack Blower Kit – 800 CFM (2*6Ah battery, CH2800D charger, 1*Nozzle)



Regular Price
Precio regular
\$699.99

Discounted price
Precio descontado
\$299.99

Stihl
BGA 300 CORDLESS BACKPACK BLOWER/ UNIT ONLY



Regular Price
Precio regular
\$429.99

Discount Price
Precio descontado
\$129.99


EGO
600CFM Blower



Regular Price
Precio regular
\$449.99

Discounted price
Precio descontado
\$149.99

Stihl
BGA 200 CORDLESS HANDHELD BLOWER/ UNIT ONLY



Regular Price
Precio regular
\$6,000

Discounted price
Precio descontado
\$1,800

Pellenc America
Securion



POTENTIAL MENLO PARK INCENTIVE

Category of Rebate	Amount
Commercial gardeners working in Menlo park	Up to \$1,000 for new purchase of covered electric gardening equipment, extra batteries, or power management systems
Menlo Park residents and non-gardening businesses	Up to \$250 per address per year for newly purchased electric gardening equipment regulated under the proposed rules



IMPACT OF REBATES TO SUPPORT TRANSITION



- For gardeners, up to \$1,000 would help cover:
 - 23% to 60% of costs for electric leaf blowers and string trimmers required by July 2024
 - Many gardeners already have an electric leaf blower
 - The rebate could motivate transitioning other equipment sooner
- For residents and businesses, the rebate would cover 80% to 100% of the cost of electric leaf blowers and string trimmers
- Rebate program could run for three years
 - Equipment costs are expected to decrease due to economies of a scale as a result of the state's requirement



NEXT STEPS

- Second reading to adopt ordinance and approve rebate program on June 27
- Inform and support gardeners about the new rule and how to transition prior to enforcement beginning



The suburban landscape features perennials and ground cover that support wildlife and require no mowing or raking. (Photo: Xerces Society / Matthew Shepherd)





THANK YOU



STAFF REPORT

City Council

Meeting Date: 6/13/2023

Staff Report Number: 23-140-CC

Informational Item: City Council agenda topics: June 20 – July 11

Recommendation

The purpose of this informational item is to provide the City Council and members of the public access to the anticipated agenda items that will be presented to the City Council. The mayor and city manager set the City Council agenda so there is no action required of the City Council as a result of this informational item.

Policy Issues

In accordance with the City Council procedures manual, the mayor and city manager set the agenda for City Council meetings.

Analysis

In an effort to provide greater access to the City Council's future agenda items, staff has compiled a listing of anticipated agenda items, Attachment A, through July 11. The topics are arranged by department to help identify the work group most impacted by the agenda item.

Specific dates are not provided in the attachment due to a number of factors that influence the City Council agenda preparation process. In their agenda management, the mayor and city manager strive to compile an agenda that is most responsive to the City Council's adopted priorities and work plan while also balancing the business needs of the organization. Certain agenda items, such as appeals or State mandated reporting, must be scheduled by a certain date to ensure compliance. In addition, the meeting agendas are managed to allow the greatest opportunity for public input while also allowing the meeting to conclude around 11 p.m. Every effort is made to avoid scheduling two matters that may be contentious to allow the City Council sufficient time to fully discuss the matter before the City Council.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

A. City Council agenda topics: June 20 – July 11

Report prepared by:

Judi A. Herren, Assistant to the City Manager/City Clerk

Tentative City Council Agenda

#	Title	Department	Item type	City Council action
1	Adopt a reso overruling protests and ordering the levy and collection of assessments for Landscape Assessment District for FY23-24	PW	Public Hearing	Adopt resolution
2	Adopt a reso to approve updated design for Middle Avenue Caltrain crossing	PW	Regular	Adopt resolution
3	Adopt a reso to execute a MOU between City of Menlo Park and Caltrain for San Francisquito Creek embankment stabilization	PW	Consent	Adopt resolution
4	Adopt reso for Menlo Park Community Campus parking management plan	CMO, PW	Regular	Adopt resolution
5	Amend agreement with APTIM Environmental and Infrastructure, LLC for Bedwell Bayfront Park Landfill leachate and gas collection and control systems	PW	Consent	Contract award or amend
6	Aquatics operator agreement	LCS	Regular	Contract award or amend
7	Authorize the city manager to enter into a five-year agreement for the Preventative Maintenance and Repair Services for HVAC within City buildings	PW	Consent	Contract award or amend
8	Authorize the Mayor to sign a letter on behalf of the City Council to SM County re: Flood School Flood Park	CMO	Consent	Approve
9	Award of construction contract for Willow Oaks Park Improvement Project	PW	Consent	Contract award or amend
10	City Council work plan update	CMO	Informational	No action
11	Closed session: Labor	ASD, CA	Closed Session	No action
12	Adopt Successor Labor Agreements with SEIU and AFSCME	ASD	Regular	Adopt resolution
13	Environmental Justice and Safety Elements	CDD	Study Session	Direction to staff
14	Execute an agreement to provide below market rate housing program admin services	CDD	Consent	Approve
15	First reading and intro of ord adopting of Community amenity regulation and adopt reso of amenity list updates	CDD	Regular	Adopt resolution, First read/intro ordinance
16	First reading and intro of Safe Storage ordinance	PD	Regular	First read/intro ordinance
17	Fiscal Year 2023-24 Budget and Capital Improvement Plan Adoption	ASD	Regular	Adopt resolution
18	Presentation: Sister Cities annual update	CMO	Presentation	No action
19	Proclamation: July as Parks and Recreation Month	LCS	Proclamation	No action
20	Provide direction on speed limit reductions on residential streets	PW	Study Session	Direction to staff
21	Adopt a reso adopting admin citation fines	CMO	Consent	Adopt resolution
22	Review and authorize staff to submit the revised Housing Element to HCD	CDD	Regular	Direction to staff
23	Second reading and adoption administrative citation ordinance	CMO	Consent	First read/intro ordinance
24	Transmittal of city attorney billing (May 2023)	CMO	Informational	No action
25	City Council policy CC-23-004 Environmental Quality Commission and Finance and Audit Committee updates	CMO	Consent	Adopt resolution
26	Second reading and adoption Zero Emission Landscaping Equipment (ZELE) ord and adopt a resolution	CMO	Consent	Second read/adopt ordinance



STAFF REPORT

City Council

Meeting Date:

6/13/2023

Staff Report Number:

23-132-CC

Informational Item:

Transmittal of city attorney billing

Recommendation

This is an informational item and does not require City Council action.

Policy Issues

In accordance with the City Council informational requests, this staff report transmits information to the public.

Background

On Feb. 23, 2021, the City Council approved an agreement with Burke Williams Sorenson, LLP (BWS) for city attorney services.

Analysis

As requested by the City Council, the city attorney has prepared monthly summaries of billing activity (costs/fees) for legal services that could be shared with the public. This staff report transmits the summary for the month of April 2023.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Billing summary – April 2023

Report prepared by:

Justin I.C. Murphy, City Manager

APRIL 2023 CITY LEGAL SERVICES - Burke, Williams & Sorensen, LLP

Description	Fees	Costs	Total Billed
GENERAL MUNICIPAL MATTERS	\$45,117.00	\$74.25	\$45,191.25
REAL ESTATE, COMPLEX HOUSING, CEQA, NEPA	\$6,592.00	\$24.75	\$6,616.75
HOUSING ELEMENT	\$3,720.00	\$0.00	\$3,720.00
CONSTRUCTION AND COMPLEX PUBLIC WORKS	\$5,363.00		\$5,363.00
MENLO UPTOWN	\$240.00		\$240.00
123 INDEPENDENCE	\$2,928.00		\$2,928.00
WILLOW VILLAGE	\$713.00		\$713.00
1350 ADAMS COURT	\$10,560.00		\$10,560.00
1075 O-BRIEN/CS BIO	\$672.00		\$672.00
162-164 JEFFERSON	\$5,136.00		\$5,136.00
1105-1165 O'BRIEN DRIVE	\$3,408.00		\$3,408.00
BOHANNON DEVELOPMENT	\$1,440.00		\$1,440.00
FEES	\$3,813.00	\$210.57	\$4,023.57
SPRINGLINE/1300 EL CAMINO REAL	\$480.00		\$480.00
CODE ENFORCEMENT/ PITCHES / NUISANCE PR	\$3,441.00	\$116.75	\$3,557.75
SRI CAMPUS	\$15,840.00		\$15,840.00
MPCC PG&E EMINENT DOMAIN	\$217.00	\$323.00	\$540.00
1005 O'BRIEN	\$528.00		\$528.00
UUT CLAIM/LITIGATION	\$12,183.00	\$385.50	\$12,568.50
PUBLIC RECORDS ACT	\$2,214.00		\$2,214.00
CITY COUNCIL	\$1,782.00		\$1,782.00
980-1030 O'BRIEN	\$3,763.00		\$3,763.00
3705 HAVEN	\$1,104.00		\$1,104.00
KUNZE DOG LAWSUIT	\$3,693.50	\$39.95	\$3,733.45
1305 HOOVER	\$11,090.00	\$24.75	\$11,114.75
CITY LEGAL EXPENSES PAID BY CITY			\$88,770.27
CITY LEGAL EXPENSES PAID BY DEVELOPERS			\$58,466.75
TOTAL			\$147,237.02



STAFF REPORT

City Council

Meeting Date:

6/13/2023

Staff Report Number:

23-137-CC

Informational Item:

Police department quarterly update – Q1 January
2023 – March 2023

Recommendation

The purpose of this informational item is to provide an update to the public and to the City Council as requested in the City Council discussions in spring and summer 2021. This is an informational item and does not require City Council action.

Policy Issues

In accordance with the City Council informational requests and interest in Menlo Park Police Department (MPPD) activities and use of equipment, this staff report transmits information to the public.

Analysis

In public discussions with City Council, the following information is provided through regular updates by the MPPD:

1. Racial and Identity Profiling Act (RIPA). The department is required to collect stop data on all police detentions and report the details along specific guidelines to the California Department of Justice (DOJ). MPPD will provide quarterly updates of this data as part of this report beginning with the first calendar quarter of 2023.
2. Results of required periodic auditing of the department's automated license plate reader (ALPR) technology. The department is required to conduct regular audits of the system to ensure it is being used appropriately.
3. Reports of interactions with Animal Control. Specifically, the City Council requested to be notified of any Animal Control hearings being held for dangerous animal in Menlo Park.
4. Use of force and Taser incidents. Committed to transparency, the MPPD will provide the number of documented use of force incidents and Taser deployments regularly. Every documented use of force incident (including Taser deployments) is investigated and reviewed by the supervisor and command staff by policy.
5. Complaints. Also in the spirit of transparency, the MPPD will provide the number of complaints received and reviewed regularly. The department will also provide limited details on complaints that have come to completion during the quarter.
6. Assembly Bill 481 (AB 481). AB 481, signed into law in Sept. 30, 2021, and applicable to agencies no later than May 1, 2022, requires that law enforcement agencies obtain the approval of the City Council, through the adoption of a Military Equipment Use Policy, by ordinance at a regular meeting held pursuant to specified open meeting laws, before taking certain actions relating to the funding, acquisition or use of military equipment, as defined. The City Council adopted this ordinance at the May 10, 2022, meeting.
7. Community engagement. For a more holistic perspective, the MPPD will also be sharing a general overview of outreach activities completed by the department on a regular basis.

Quarterly update Q1 – January – March 2023

RIPA update

MPPD contacted 1921 persons in a manner that qualified for RIPA reporting from January through March 2023. The department has a pre-formatted reporting template for this data, which is attached.

ALPR update

From January through March 2023, MPPD's three mobile mounted ALPR's captured 127,179 license plates. The data captured resulted in 145 "hits" that a captured license plate was currently on an active law enforcement database or wanted list.

Additionally, MPPD also audits inquiries to the overall ALPR databases made by members of MPPD Staff. Each inquiry to the database requires an articulable investigative reason (case investigation). The ALPR database was offline for the entire reporting period and no inquiries were made.

Animal Control update

During this reporting period, no animal control hearing for animals in Menlo Park were conducted and based upon the information currently available there were no citations issued by Animal Control in our jurisdiction.

Use of force update

From January through March 2023, MPPD was attached to 8,502 incidents, including calls for police service and proactive patrol activity. There were no uses of force meeting the threshold for further documentation reported. Each reported use of force report is presented for review to the Chief and Command Staff, and any training issues are identified and addressed.

Complaints update

From January through March, MPPD was attached to 8,502 incidents, including calls for police service and proactive patrol activity. Four complaints were documented either from the community or self-initiated by this Department. The department always evaluates and/or investigates each complaint according to policy.

AB 481 equipment use update

From January through March 2023, MPPD was attached to 8,502 incidents, including calls for police service and proactive patrol activity. During this time period, there were no operations of MPPD or SWAT personnel that resulted in the use of equipment listed in compliance with AB 481.

Community engagement update

Menlo Park police officers encounter opportunities regularly to interact with the community in a positive way. During the quarter of January through March 2023, Menlo Park police officers documented 30 distinct incidents as "OUTREACH" in the computer dispatch system (CAD). While this number is the floor, not the ceiling of the total positive interactions MPPD has with the public, these incidents were entirely community engagement and public service oriented.

The 30 incidents included officers engaging in conversations over coffee with community members, passing out stickers to children, interactive visits to the local skate park, engagement during downtown foot and bicycle patrols, addition to numerous visits to local elementary and middle schools. Members from across the department interacted with our community at various events throughout the city in an effort to promote police-community partnerships. Additional efforts included our team contributions during the January storm response (door-to-door notifications and special attention to residents needing a little extra help), bicycle donations in partnership with the Live in Peace Bicycle shop to serve youth in need, hospital and care home visits, and appearances at car shows and career recruiting events. We also completed our six-week Community Police Academy, which graduated nearly 20 residents.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

A. MPPD RIPA Report Q1 – 2023

Report prepared by:

Scott Mackdanz, Administrative Sergeant

Tracy Weber, Technical Services Supervisor

William Dixon, Police Commander

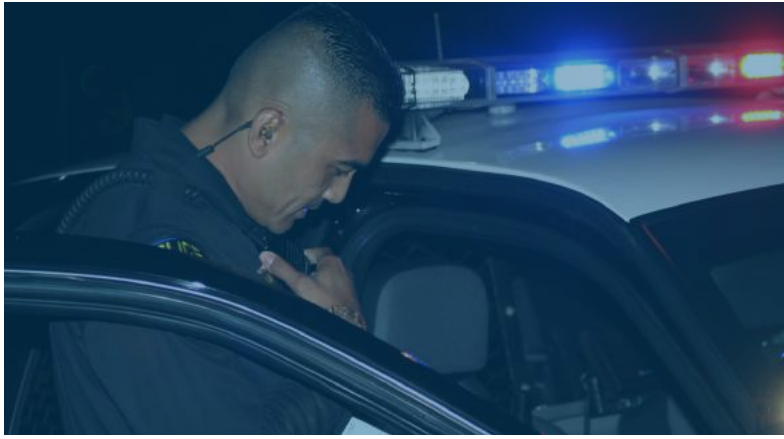
Dave Norris, Police Chief



MENLO PARK POLICE DEPARTMENT RIPA REPORT Q1-2023

PUBLIC SAFETY





Racial and Identity Profiling Act (RIPA) California Assembly Bill 953

OVERVIEW:

In 2015, the State of California passed Assembly Bill No. 953 (AB 953), otherwise known as the Racial and Identity Profiling Act (RIPA). AB 953, hereafter referred to simply as RIPA, requires that law enforcement agencies in the state of California collect perceived demographic data from specified police contacts.

This data, referred to by RIPA as “stop data,” is to be collected in accordance with the California Code of Regulations and submitted to the Department of Justice on a yearly basis.

As outlined by the California Code of Regulations (11 CCR § 999.224), RIPA stop data must be collected during police contacts matching either of the following criteria: *“(1) Any detention ... by a peace officer of a person; or (2) any peace officer interaction with a person in which the officer conducts a search...”*

Specified data fields for each RIPA stop must be completed at the end of every qualifying contact and certain data collected is based on the officer’s perception. Therefore, it is important to note that the way an officer perceives any given individual might differ from the way that individual identifies themselves.

The collection requirement of this statute was implemented in waves, with each wave having a staggered commencement date based on agency size. Larger agencies in the state began collecting stop data as early as 2018. As a smaller-size agency, Menlo Park Police Department began collecting stop data for RIPA on January 1, 2022 and regularly uploading the data to the Department of Justice shortly thereafter.

The Menlo Park Police Department welcomes the opportunity to use this data to continuously maintain and improve upon our longstanding core values, and providing the people of Menlo Park a transparent overview of each year’s RIPA data and utilizing that data to continuously monitor our work and engage in meaningful conversations with our Community. The following report has been compiled using Menlo Park Police Department RIPA stop data from the period of January 1, 2023, to March 3, 2023.

METHODOLOGY:

The information presented in the RIPA section of this report is representative of the first quarter of 2023 statistical data gathered from the work of on-duty Menlo Park Police Officers. This data includes all stop data reported by our police officers. While a large majority of these stops typically occur within the City of Menlo Park, our jagged boundaries result in occasional stops in adjoining jurisdictions, including Atherton, East Palo Alto, and Unincorporated San Mateo County.

Officers report the following for “perceived characteristics” for each person stopped:

- Perceived Race or Ethnicity of Person Stopped
- Perceived Gender of Person Stopped
- Person Stopped Perceived to be LGBT
- Perceived Age of Person Stopped
- Person Stopped Has Limited or No English Fluency
- Perceived or Known Disability of Person Stopped

RIPA DATA

Specific officer actions are also tracked if the individual meets the stop requirements of RIPA. These include:

- Reason for stop
- Result of the stop
- Actions taken during the stop

REFERENCE MATERIALS SUPPLEMENTAL TO REVIEW OF COLLECTED DATA:

- Link for the [DOJ Data Portal](#)
NOTE – Various state reports on this site include accumulated annual RIPA data aggregated by year up to 2021, and will not yet include Menlo Park PD Data from 2022
- Link to [2023 RIPA Board Annual Report](#)
- Link to [Menlo Park PD Open Data - Current](#)
- Link to [MPPD Lexipol Policy Manual](#) Bias-Based Policing Policy and RIPA Policy 402 (p. 314)
This includes section 402.4.2 "REPORTING OF STOPS" and 402.7 "REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE"
- Link to the [2020-21 San Mateo County Civil Grand Jury's Report](#) - "BUILDING GREATER TRUST BETWEEN THE COMMUNITY & LAW ENFORCEMENT VIA THE RACIAL AND IDENTITY PROFILING ACT"

DEMOGRAPHICS REFERENCE:

- [City of Menlo Park](#)
- [San Mateo County](#)
- [9 SF Bay Area Counties](#)
- [State of California](#)

As defined in RIPA Regulations – More than one option can be chosen

“Asian” refers to a person having origins in any of the original peoples of the Far East or Southeast Asia, including for example, Cambodia, China, Japan, Korea, Malaysia, the Philippine Islands, Thailand, and Vietnam, but who does not fall within the definition of “Middle Eastern or South Asian” or “Pacific Islander.”

“Black/African American” Refers to a person having origins in any of the Black racial groups of Africa.

“Hispanic/Latino” refers to a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

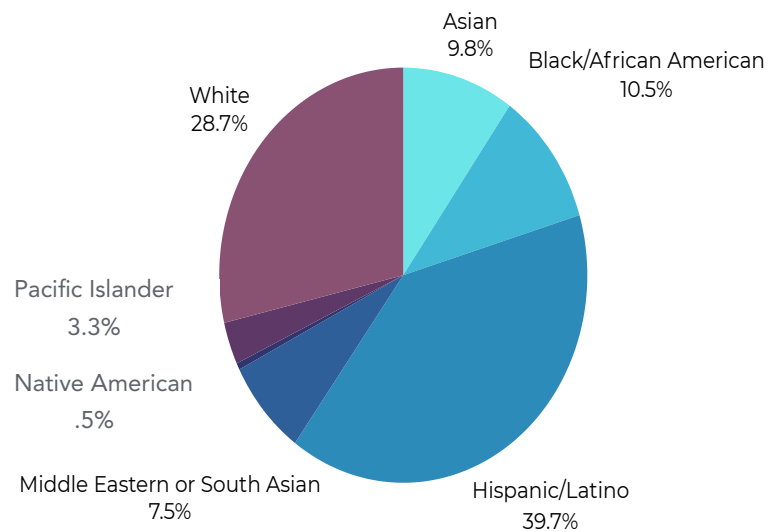
“Middle Eastern or South Asian” refers to a person of Arabic, Israeli, Iranian, Indian, Pakistani, Bangladeshi, Sri Lankan, Nepali, Bhutanese, Maldivian, or Afghan origin.

“Native American” refers to a person having origins in any of the original peoples of North, Central, and South America.

“Pacific Islander” refers to a person having origins in any of the original peoples of Hawaii, Guan, Samoa, or other Pacific Islands, but who does not fall within the definition of “Middle Eastern or South Asian” or “Asian.”

“White” refers to a person of Caucasian descent having origins in any of the original peoples of Europe and Eastern Europe.

Asian	190
Black/African American	204
Hispanic/Latino	769
Middle Eastern or South Asian	145
Native American	10
Pacific Islander	64
White	556



RIPA DATA

TOTAL STOPS
1,921

OFFICER INITIATED
ACTIVITY
1,886

CALLS FOR SERVICE
RESULTING IN STOPS
35

ANNUAL RACIAL AND IDENTITY PROFILING ACT (RIPA) STATISTICS

Consensual encounter resulting in search	20
Determine if student violated school property	0
Investigation to determine if the person is a truant	2
Knowledge of outstanding arrest warrant/wanted person	17
Known to be on parole/probation/PRCS/mandatory supervision	11
Possible conduct warranting discipline under Education Code	0
Reasonable suspicion that the person was engaged in criminal activity	88
Traffic violation	1,764

ACTIONS TAKEN DURING STOP

Asked for consent to search a person	49
Asked for consent to search property	40
Baton or other impact weapon used	0
Canine bit or held a person	0
Chemical spray used	0
Curbside detention	10
Electronic control device used	0
Field sobriety test conducted	6
Firearm discharged or used	0
Firearm pointed at person	1
Handcuffed or flex cuffed	71
Impact projectile discharged or used	0
None	1,728
Other physical or vehicle contact	5
Patrol car detention	24
Person photographed	37
Person removed from vehicle by order	29
Person removed from vehicle by physical contact	4
Property was seized	37
Search of person was conducted	120
Search of property was conducted	85
Vehicle impounded	6

RIPA DATA

RESULT OF STOP

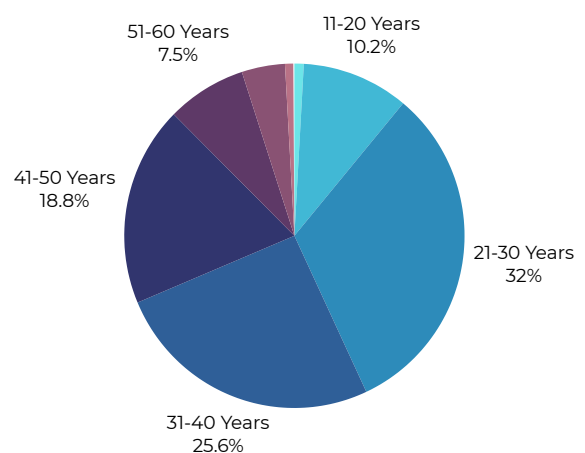
Citation for infraction	747
Contacted parent/legal guardian or other person responsible for the minor	1
Contacted the U.S. Department of Homeland Security	1
Custodial arrest pursuant to outstanding warrant	25
Custodial arrest without warrant	39
Field interview card completed	12
In-field cite and release	59
No action	110
Noncriminal transport for caretaking	0
Psychiatric hold	1
Referral to school administrator	0
Referral to school counselor or other support staff	0
Warning (verbal or written)	958

REASON FOR STOP

Consensual encounter resulting in search	20
Determine if student violated school policy	0
Investigation to determine if the person is truant	0
Knowledge of outstanding arrest warrant/wanted person	17
Known to be on parole/probation/PRCS/mandatory supervision	11
Possible conduct warranting discipline under Education Code	0
Reasonable suspicion that the person was engaged in criminal activity	89
Traffic violation	1,765

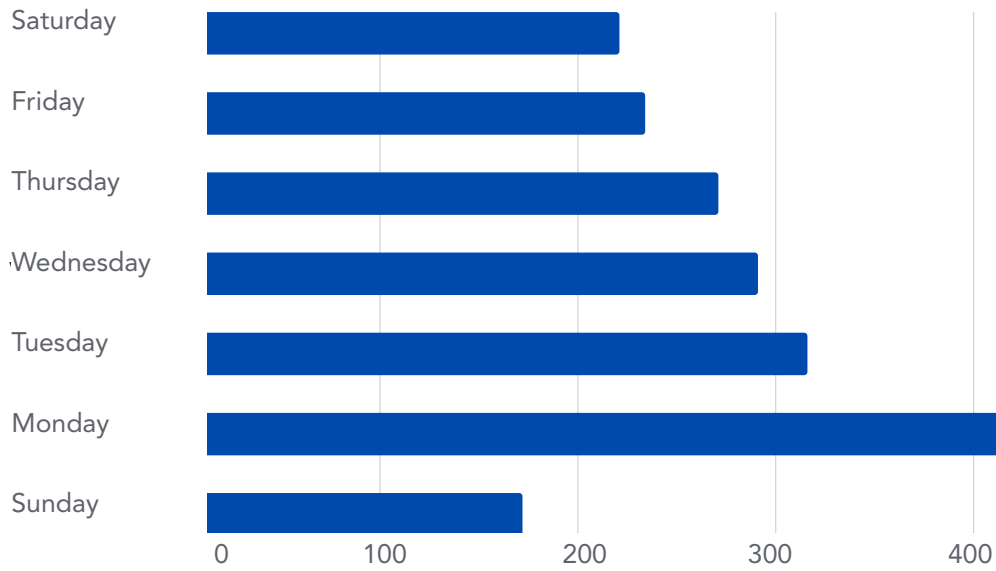
PERCEIVED AGE

0-10 Years	17
11-20 Years	195
21-30 Years	615
31-40 Years	492
41-50 Years	361
51-60 Years	145
61-70 Years	79
71-80 Years	15
81-90 Years	2
90 Years or Older	0

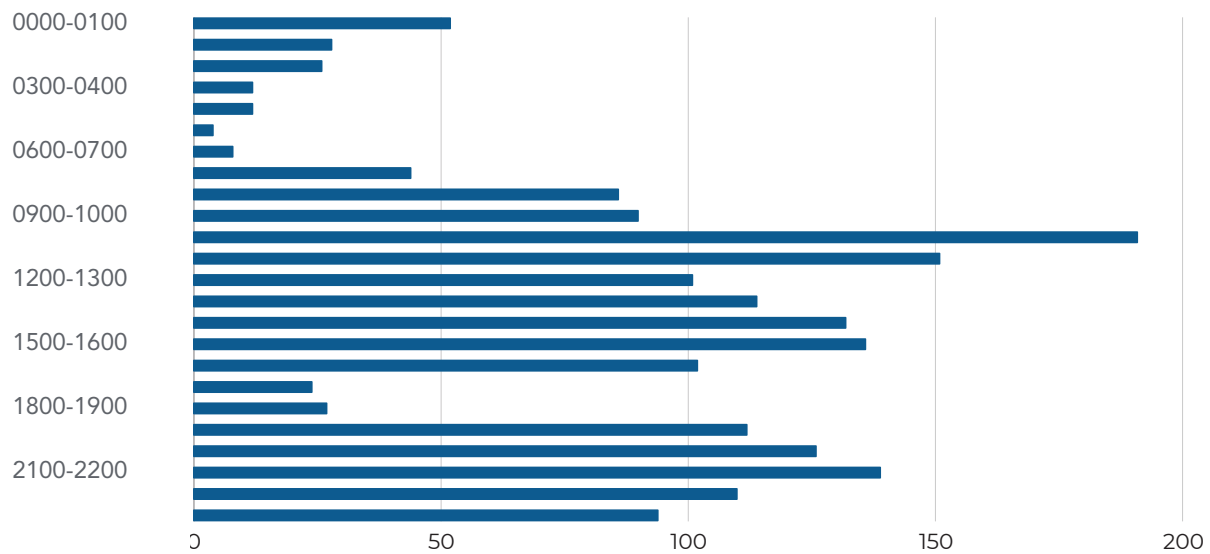


RIPA DATA

STOPS BY DAY OF WEEK



STOPS BY TIME OF DAY



RIPA DATA

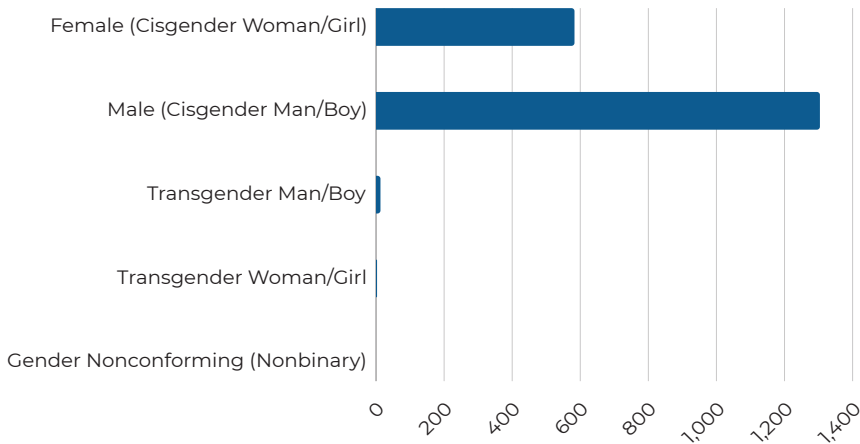
PERCEIVED GENDER

As defined in RIPA Regulations

“Transgender man/boy” means a person who was assigned female at birth but who currently identifies as a man, or boy if the person is a minor.

“Transgender woman/girl” means a person who was assigned male at birth but who currently identifies as a woman, or girl if the person is a minor.

“Gender nonconforming” means a person whose gender-related appearance, behavior, or both, differ from traditional conceptions about how males or females typically look or behave. A person of any gender or gender identity may be gender nonconforming. For this reason, an officer may select “Gender nonconforming” in addition to any of the other gender data values, if applicable.

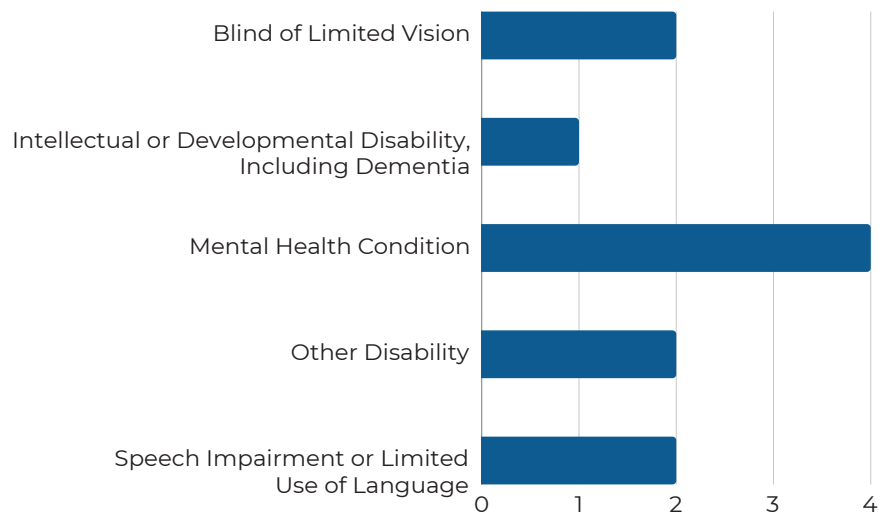


Female (Cisgender Woman/Girl)	583
Male (Cisgender Man/Boy)	1,304
Transgender Man/Boy	13
Transgender Woman/Girl	3
Gender Nonconforming (Nonbinary)	0

PERCEIVED DISABILITY

Blind or Limited Vision	2
Intellectual or Developmental Disability, Including Demetia	1
Mental Health Condition	4
Other Disability	2
Speech Impairment or Limited Use of Language	2

It should be noted that for 1,895 contacts, there were no perceived disabilities.





City of Menlo Park
701 Laurel St.
Menlo Park, CA 94025
650-330-6300
menlopark.gov/police

Building a Safe Community