



CITY COUNCIL SPECIAL AND REGULAR MEETING AGENDA

Tuesday, March 27, 2012
6:15 p.m.
701 Laurel Street, Menlo Park, CA 94025
City Council Chambers

6:15 P.M. CLOSED SESSION (1st floor Council Conference Room, City Hall)

Public Comment on Closed Session item will be taken prior to adjourning to Closed Session

CL1. Pursuant to Government Code Section 54956.9 to conference with legal counsel regarding existing litigation; 2 cases:

(1) Town of Atherton, et al. v. California High Speed Rail Authority
Superior Court of California, County of Sacramento, Case No. 34-2008-80000022 (Atherton 1)

(2) Town of Atherton, et al. v. California High Speed Rail Authority
Superior Court of California, County of Sacramento, Case No. 34-2010-80000679 (Atherton 2)

7:00 P.M. REGULAR SESSION

ROLL CALL – Cline, Cohen, Fergusson, Keith, Ohtaki

PLEDGE OF ALLEGIANCE

REPORT FROM CLOSED SESSION

ANNOUNCEMENTS

A. PRESENTATIONS AND PROCLAMATIONS

A1. Proclamation: National Library Week ([Attachment](#))

B. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS

C. PUBLIC COMMENT #1 (Limited to 30 minutes)

Under "Public Comment #1", the public may address the Council on any subject not listed on the agenda and items listed under the Consent Calendar. Each speaker may address the Council once under Public Comment for a limit of three minutes. Please clearly state your name and address or political jurisdiction in which you live. The Council cannot act on items not listed on the agenda and, therefore, the Council cannot respond to non-agenda issues brought up under Public Comment other than to provide general information.

D. CONSENT CALENDAR

D1. Update on commission recruitment for 2012 and consider consolidating the 2012 Planning Commission vacancies by extending the term of one Planning Commissioner from April 30 to August 31, 2012 ([Staff report #12-049](#))

- D2.** Adopt a resolution authorizing the City Manager to accept the Highway Safety Improvement Program (HSIP) Cycle 4 Federal Grant in the amount of \$49,550 and execute Program Supplement Agreement No. N012 to administering agency-state agreement for Federal-Aid Project No. 04-5273, covering preliminary engineering, and authorize the City Manager to execute all other agreements to implement the installation of an in-pavement lighted crosswalk system at the intersection of Oak Grove Avenue and Merrill Street ([Staff report #12-051](#))
- D3.** Authorize the City Manager to enter into a Joint Use Agreement with the Menlo Park City School District for Hillview and Oak Knoll Schools and Nealon Park and Nealon Tennis Courts ([Staff report #12-052](#))
- D4.** Authorize Mayor Keith to send a letter to the San Mateo County Mosquito & Vector Control District requesting improved financial control and oversight ([Staff report #12-050](#))
- D5.** Adopt a resolution increasing the City Manager's contract approval up to \$100,000 for contract City Attorney services for review of the El Camino Real/Downtown Specific Plan and appropriate \$50,000 from the General Fund ([Staff report #12-055](#))
- D6.** Accept Council minutes for the meetings of March 6th and 13th ([Attachment](#))

E. PUBLIC HEARINGS

- E1.** Adopt a resolution amending the City's Master Fee Schedule to incorporate proposed changes in fees to become effective immediately or July 1, 2012 or as required by statute for the following departments: Community Development, Community Services, Library and Public Works ([Staff report #12-048](#))

F. REGULAR BUSINESS

- F1.** Adopt a resolution approving a Memorandum of Understanding (MOU) between the City of Menlo Park and Service Employees International Union, Local 521 (SEIU) for the period beginning March 25, 2012 through October 31, 2013 ([Staff report #12-047](#))
- F2.** Adopt a resolution of the City Council of the City of Menlo Park of its finding and intention to sell that certain real property located behind properties fronting on the north side of Terminal Avenue, consisting of the Beechwood School property and vacant land between the school and Menlo Park Fire Protection District Station No. 77 and south of the Joint Powers Authority owned railroad right Of way, and 297 Terminal Avenue to the California Family Foundation Pursuant to Government Code Section 37420 et seq. ([Staff report #12-054](#))
- F3.** Consider state and federal legislative items, including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Item

G. CITY MANAGER'S REPORT – None

H. WRITTEN COMMUNICATION – None

I. INFORMATIONAL ITEMS – None

J. COUNCILMEMBER REPORTS

K. PUBLIC COMMENT #2 (Limited to 30 minutes)

Under "Public Comment #2", the public if unable to address the Council on non-agenda items during Public Comment #1, may do so at this time. Each person is limited to three minutes. Please clearly state your name and address or jurisdiction in which you live.

L. ADJOURNMENT

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City website at <http://www.menlopark.org> and can receive e-mail notification of agenda and staff report postings by subscribing to the "Home Delivery" service on the City's homepage. Agendas and staff reports may also be obtained by contacting the City Clerk at (650) 330-6620. Copies of the entire packet are available at the library for viewing and copying. (Posted: 03/22/2012)

At every Regular Meeting of the City Council/Community Development Agency Board, in addition to the Public Comment period where the public shall have the right to address the City Council on the Consent Calendar and any matters of public interest not listed on the agenda, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the Mayor, either before or during the Council's consideration of the item.

At every Special Meeting of the City Council/Community Development Agency Board, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the Mayor, either before or during consideration of the item.

Any writing that is distributed to a majority of the City Council 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 for inspection at the Office of the City Clerk, Menlo Park City Hall, 701 Laurel Street, Menlo Park, CA 94025 during regular business hours. Members of the public may send communications to members of the City Council via the City Council's e-mail address at city.council@menlopark.org. These communications are public records and can be viewed by any one by clicking on the following link: <http://ccin.menlopark.org>

City Council meetings are televised live on Government Access Television Cable TV Channel 26. Meetings are re-broadcast on Channel 26 on Thursdays and Saturdays at 11:00 a.m. A DVD of each meeting is available for check out at the Menlo Park Library. Live and archived video stream of Council meetings can be accessed at http://menlopark.granicus.com/ViewPublisher.php?view_id=2

Persons with disabilities, who require auxiliary aids or services in attending or participating in City Council meetings, may call the City Clerk's Office at (650) 330-6620.

Proclamation

National Library Week April 8-14, 2012

WHEREAS, libraries have historically served as our nation's great equalizers of knowledge by providing free access to all; and

WHEREAS, libraries work to meet the changing needs of their users, including building collection, expanding services and increasing programming; and

WHEREAS, our nations libraries provide a forum for diverse ideas and points of view that help us better understand each other and ourselves; and

WHEREAS, librarians are trained professionals, helping people of all ages and backgrounds find and interpret the information they need to live, learn and work in a challenging economy; and

WHEREAS, libraries are part of the American dream, places for education, opportunity and lifelong learning; and

WHEREAS, libraries, librarians, library workers and supporters across America are celebrating National Library Week.

NOW, THEREFORE, be it resolved that I Kirsten Keith, Mayor of the City of Menlo Park, proclaim National Library Week, April 8-14, 2012. I encourage all residents to visit the Menlo Park Library to take advantage of the wonderful library resources available at your library. You belong @ your library.



Kirsten Keith
Mayor





ADMINISTRATIVE SERVICES

Council Meeting Date: March 27, 2012

Staff Report #: 12-049

Agenda Item #:D-1

CONSENT CALENDAR: Update on Commission Recruitment for 2012 and consider consolidating the 2012 Planning Commission vacancies by extending the term of one Planning Commissioner from April 30 to August 31, 2012

RECOMMENDATION

Staff is providing an update on all 2012 Commission recruitments and recommends the City Council consider consolidating the three (3) 2012 Planning Commission vacancies by extending the term of one Planning Commissioner from April 30 to August 31, 2012.

BACKGROUND

Menlo Park has seven active commissions, one active committee and two inactive commissions making up the ten Advisory Bodies to the City Council. Menlo Park's advisory bodies play an important role in City government by providing recommendations to the City Council on City policies.

On May 4, 2010, the Council approved a consolidation of recruitment in order to reduce the number of recruitments conducted each year. Since that time, as new appointments are made, the ending dates for terms have been modified to reconcile in relation to the approved plan, which converts the completion of all newly appointed Commissioners to end in the month of April. To date, 35 of the 54 seats have been converted. In 2012, seven (7) seats will be converted with the remaining twelve in 2013, completing the consolidation plan.

The recruitments in 2012 are as follows:

Terms ending April 30	Terms ending July 31	Terms ending August 31	Terms ending September 30
1 Planning Commissioner	1 Library Commissioner	2 Planning Commissioners	1 Park & Recreation Commissioner
	1 Housing Commissioner	2 Environmental Quality Commissioners	

In addition to the above recruitments, recruitment began in November, 2011 for two Finance and Audit Committee members and is on-going until an adequate number of applications are received. The two outgoing members continue to serve, although each their terms have expired.

Staff is asking Council to consider extending Planning Commissioner Peipei Yu's current term, from expiring on April 30 to August 31; this will coincide with the other two upcoming Planning Commission vacancies. Ms. Yu was appointed in January 2011 to fill the unexpired term vacated by Mayor Keith. Consolidating the two Planning Commission recruitments into one, will allow additional time for recruitment, as well as necessitating only one set interviews for the vacancies.

IMPACT ON CITY RESOURCES

Since the Planning Commission applicants are interviewed by the full City Council, it would be a more efficient use of Council time to hold only one set of interviews. There would be a cost savings in advertising by recruiting for the three 2012 Planning Commission vacancies in a single recruitment.

POLICY ISSUES

If the Council chooses to consolidate the Planning Commission, it would be a minor deviation from Council Policy CC-01-04; application and Selection section (Attachment A). When deemed appropriate, Council has extended terms in prior years.

ENVIRONMENTAL REVIEW

This report is not subject to the California Environmental Quality Act (CEQA).



Margaret S. Roberts, MMC
City Clerk
Report Author

PUBLIC NOTICE: Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

ATTACHMENTS:

- A. Page 5 of Council Policy CC-01-004 regarding Commission Application and Selection process

City of Menlo Park

City Council Policy

Department City Council	Page 5 of 10	Effective Date 3-13-01
Subject Commissions/Committees Policies and Procedures and Roles and Responsibilities	Approved by: Motion by the City Council on 03-13-2001; Amended 09-18-2001; Amended 04-05-2011	Procedure # CC-01-0004

Application/Selection Process

1. The application process begins when a vacancy occurs due to term expiration, resignation, removal or death of a member.
2. The application period will normally run for a period of four weeks from the date the vacancy occurs. If there is more than one concurrent vacancy in a Commission, the application period may be extended. Applications are available from the City Clerk's office and on the City's website.
3. The City Clerk shall notify members whose terms are about to expire whether or not they would be eligible for reappointment. If reappointment is sought, an updated application will be required.
4. Applicants are required to complete and return the application form for each Commission/Committee they desire to serve on, along with any additional information they would like to transmit, by the established deadline. Applications sent by fax, email or submitted on-line are accepted; however, the form submitted must be signed.
5. After the deadline of receipt of applications, the City Clerk shall schedule the matter at the next available regular Council meeting. All applications received will be submitted and made a part of the Council agenda packet for their review and consideration. If there are no applications received by the deadline, the City Clerk will extend the application period for an indefinite period of time until sufficient applications are received.
6. Upon review of the applications received, the Council reserves the right to schedule or waive interviews, or to extend the application process in the event insufficient applications are received. In either case, the City Clerk will provide notification to the applicants of the decision of the Council.
7. If an interview is requested, the date and time will be designated by the City Council. Interviews are open to the public.
8. The selection/appointment process by the Council shall be conducted open to the public. Nominations will be made and a vote will be called for each nomination. Applicants receiving the highest number of affirmative votes from a majority of the Council present shall be appointed.
9. Following a Council appointment, the City Clerk shall notify successful and unsuccessful applicants accordingly, in writing. Appointees will receive copies of the City's Non-Discrimination and Sexual Harassment policies, and disclosure statements for those members who are required to file under State law as designated in the City's Conflict of Interest Code. Copies of the notification will also be distributed to support staff and the Commission/Committee Chair.
10. An orientation will be scheduled by support staff following an appointment (but before taking office) and a copy of this policy document will be provided at that time.



PUBLIC WORKS DEPARTMENT

Council Meeting Date: March 27, 2012

Staff Report #: 12-051

Agenda Item #: D2

CONSENT CALENDAR: Adopt a Resolution Authorizing the City Manager to Accept the Highway Safety Improvement Program (HSIP) Cycle 4 Federal Grant in the Amount of \$49,550 and Execute Program Supplement Agreement No. N012 to Administering Agency-State Agreement for Federal-Aid Project No. 04-5273, Covering Preliminary Engineering, and Authorize the City Manager to Execute All Other Agreements to Implement the Installation of an In-Pavement Lighted Crosswalk System at the Intersection of Oak Grove Avenue and Merrill Street

RECOMMENDATION

Staff recommends that the City Council adopt a resolution authorizing the City Manager to accept the Highway Safety Improvement Program (HSIP) Cycle 4 Federal Grant in the amount of \$49,550 and execute Program Supplement Agreement No. N012 to Administering Agency-State Agreement for Federal-Aid Project No. 04-5273, covering preliminary engineering, and authorize the City Manager to execute all other agreements to implement the installation of an in-pavement lighted crosswalk system at the intersection of Oak Grove Avenue and Merrill Street.

BACKGROUND

On March 11, 2011, the City of Menlo Park received a notification from the California Department of Transportation (Caltrans) that the City's project to install an in-pavement lighted crosswalk system at the intersection of Oak Grove Avenue and Merrill Street was selected to receive an HSIP Cycle 4 funding grant in the amount of \$49,500. The total amount of this project was estimated at \$55,000 and the program requires a local match of 10% of the project costs or \$5,500.

An in-pavement lighted crosswalk system is a series of high-intensity LED lights placed in the pavement on both sides of a crosswalk, directing light along the road towards oncoming traffic. When activated by a pedestrian pushbutton, the LED lights flash. The purposes of this system are to enhance pedestrian safety by increasing the visibility of the crosswalk and moderate drivers' behavior when approaching the crosswalk. The City currently has five such installations citywide.

Out of the 357 HSIP grant applications submitted state-wide in December 2010, 179 projects or approximately 50%, including Menlo Park's project, were selected. The HSIP grant program was authorized by the Federal government beginning in FY 2006 to achieve a significant reduction in traffic fatalities and serious injuries on all public roads.

The crosswalk location of Oak Grove Avenue at Merrill Street was identified in a traffic study in 2005 conducted by City staff as one of the locations that warranted an in-pavement lighted crosswalk installation to improve pedestrian safety. This location was ranked no. 4 using a prioritization formula in that traffic study. The top three crosswalk locations were Ravenswood Avenue at Alma Street, Santa Cruz Avenue at Johnson Street, and Oak Grove Avenue, in front of the Post Office. All of these locations have already been installed with in-pavement lighted crosswalk systems.

ANALYSIS

On January 19, 2012, staff received the Program Supplement Agreement No. N012 from Caltrans, the agency responsible for administering the HSIP funds for the Federal government. This agreement covers the City's obligations regarding the use of Federal funds and the administration of the project.

Execution of this agreement and subsequent agreements for the other phases of this project are required before Caltrans reimburses the City for expenses incurred to implement the project. The design phase will begin upon execution of this agreement and the project will go out to bid in late spring of 2012. Project construction is expected to occur during the summer of 2012.

IMPACT ON CITY RESOURCES

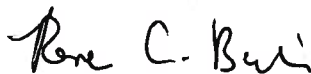
The estimated project cost of \$55,000 (\$5,500 for design and \$49,500 for construction) was budgeted in the FY 2011-12 using the Measure A Fund. HSIP grant will cover 90% of the project cost or \$49,500 which will be reimbursed to the City.

POLICY ISSUES

This project is consistent with several policies in the 1994 General Plan Circulation and Transportation Element. These policies seek to maintain a circulation system using the Roadway Classification System that will provide for the safe and efficient movement of people and goods throughout Menlo Park for residential and commercial purposes.

ENVIRONMENTAL REVIEW

The proposed installation is categorically exempt under Class 1 of the California Environmental Quality Act Guidelines. Class 1 allows for minor alterations of existing facilities, including highways and streets, sidewalks, gutters, bicycle and pedestrian access, and similar facilities, as long as there is negligible or no expansion of use.



Rene Baile, P.E.
Transportation Engineer



Matheu Oscamou, P.E.
Engineering Services Manager

PUBLIC NOTICE: Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

ATTACHMENTS: A. Resolution

RESOLUTION NO.

RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) CYCLE 4 FEDERAL GRANT IN THE AMOUNT OF \$49,550 AND TO EXECUTE THE PROGRAM SUPPLEMENT AGREEMENT NO. N012 TO A ADMINISTERING AGENCY-STATE AGREEMENT FOR FEDERAL-AID PROJECT NO. 04-5273, COVERING PRELIMINARY ENGINEERING, AND AUTHORIZE THE CITY MANAGER TO EXECUTE ALL OTHER AGREEMENTS TO IMPLEMENT THE INSTALLATION OF AN IN-PAVEMENT LIGHTED CROSSWALK SYSTEM AT THE INTERSECTION OF OAK GROVE AVENUE AND MERRILL STREET

WHEREAS, the City of Menlo Park is eligible to receive Federal funding for certain transportation projects through the California Department of Transportation (Caltrans); and

WHEREAS, on March 11, 2011, the City of Menlo Park received notification from the Caltrans that the City's project to install an in-pavement lighted crosswalk system at the intersection of Oak Grove avenue and Merrill street was selected to receive HSIP Cycle 4 funding in the amount of \$49,500; and

WHEREAS, the total amount of the project was estimated at \$55,000 and the program requires a local match of ten percent (10%) if the project costs or \$5,400; and

WHEREAS, Master Agreements and Program Supplement Agreements, Fund Exchange Agreements, and/or Fund Transfer Agreements need to be executed with the California Department of Transportation before such funds can be claimed.

NOW, THEREFORE, BE IT RESOLVED, the City Council of Menlo Park does hereby authorize the City Manager to accept the Highway Safety Improvement Program (HSIP) Cycle 4 Federal Grant in the amount of \$49,550 and to execute Program Supplement Agreement No. N012 to Administering Agency-State Agreement for Federal-Aid Project No. 04-5273, covering preliminary engineering; and

BE IT FURTHER RESOLVED, that the City Council hereby authorize the City Manager to execute of all other agreements to implement the Installation of an in-pavement lighted crosswalk system at the intersection of Oak Grove Avenue and Merrill Street.

I, Margaret S. Roberts, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the twenty-seventh day of March, 2012, 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 twenty-seventh day of March, 2012.

Margaret S. Roberts, MMC
City Clerk



PUBLIC WORKS DEPARTMENT

Council Meeting Date: March 27, 2012

Staff Report #: 12-052

Agenda Item #: D3

CONSENT CALENDAR: Authorize the City Manager to Enter into a Joint Use Agreement with the Menlo Park City School District for Hillview School, Oak Knoll School, Nealon Park, and Nealon Tennis Courts

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to enter into a Joint Use Agreement with the Menlo Park City School District (District) for Hillview School, Oak Knoll School, Nealon Park, and Nealon Tennis Courts.

BACKGROUND

On April 23, 2009 the District sent the City a letter requesting the City to contribute \$500,000 toward the cost of installing a synthetic-turf field at Hillview School.

In order to accommodate the increased demand of youth sports programs serving Menlo Park residents in recent years, the City looked for opportunities to improve and/or add to the supply of sports fields. While it would be highly desirable to develop a new facility that would provide additional playing time and space, doing so is a long-term prospect due to lack of available land in Menlo Park.

As part of the City's Measure T budget in FY 2002-03, a budget of \$630,000 was set aside for renovations to the existing Hillview School fields including Tinker Park. In initial discussions between the City and the District it was determined that the City would not perform any work to Hillview School since the District was discussing major renovations to the School. In 2004, the City spent approximately \$70,000 of Measure T funds allocated to Hillview School for upgrading Tinker Park which included new fencing, pathways, fibar, replacing some play equipment, and park furniture. The City has maintained the District sport fields and Tinker Park for over thirty years.

On January 26, 2010 the City Council authorized staff to negotiate a Joint Use Agreement with the District. The following negotiation parameters were approved by the City Council:

1. The City will contribute \$500,000 toward synthetic-turf fields at Hillview School and replacement of Tinker Park. Funds would become available after Council approval of a final Joint Use Agreement and initiation of the field renovations.
2. The final Joint Use Agreement would address, at a minimum, the following areas and will be subject to final approval by the City Council and the District Board:

- a) City's ability to collect fees for non-school uses of the field;
- b) Scheduling of field use when school is not in session;
- c) Responsibility for routine maintenance of the field and playground;
- d) Responsibility for future renovation and repairs of the field including turf replacement;
- e) Potential changes in use of the field and playground areas by the District;
- f) Allowable uses of the field which are compatible with the field surface, e.g. restrictions on parking or other uses that could damage the field surface; and
- g) City's ability to comment on the design of the Hillview School field and Tinker Park.

The District began work on the Hillview campus in 2010 and plans to complete the project in the fall of 2012.

ANALYSIS

Staff has been negotiating on the Joint Use Agreement with the District and has come to an agreement included as Attachment A.

Staff incorporated the Council parameters into the agreement as follows:

1. *The City will contribute \$500,000 toward synthetic-turf fields at Hillview School and the replacement of Tinker Park. Funds would become available after Council approval of a final Joint Use Agreement, and initiation of the field renovations. The agreement specifies that the City will contribute \$500,000 of which \$400,000 is dedicated toward the Hillview School field and \$100,000 for Tinker Park.*
 - a) *City's ability to collect fees for non-school uses of the field;* The agreement places the responsibility for collecting fees for all non-school uses on the City.
 - b) *Scheduling of field use when school is not in session;* The agreement specifies that the City is responsible for programming Hillview and Oak Knoll school fields when school is not in session and the fields are not used by the District.
 - c) *Responsibilities for routine maintenance of the field and playground;* The agreement indicates the City will be responsible for routine maintenance of the Hillview and Oak Knoll School fields and Tinker Park. The District will be responsible for all utility costs.
 - d) *Responsibility for future renovation and repairs of the fields, including turf replacement;* The agreement specifies that the District and the City are equally responsible for major repairs. If the turf at Hillview needs to be replaced this cost shall also be split equally between the District and the City.
 - e) *Potential changes in use of the field and playground areas by the District;* The agreement states that if the District decides to change the use of the fields or Tinker Park, the District will be required to replace the fields or Tinker Park or

refund the City a depreciated portion of the contribution made toward the construction of the field and Tinker Park.

- f) *Allowable uses of the fields and/or Tinker Park which are compatible with the field surface, e.g. restrictions on parking or other uses that could damage the field surface;* The agreement restricts the District and the City from using the field for anything other than its intended uses and prohibits parking of motorized vehicles on the field.
- g) *City's ability to comment on the design of the field and Tinker Park.* The plans for the sports field and Tinker Park were reviewed by staff and the Parks and Recreation Commission and the District has incorporated these comments into the plans where feasible.

The term of the agreement is for fifteen years. The agreement also includes language that formalizes the District's ability to use Nealon Park and the Nealon Tennis Courts. The District will share the responsibility for resurfacing the tennis courts and the District will be responsible for any damage caused to the tennis courts. The agreement includes an additional provision that the City will be responsible for cleaning the restrooms at Hillview School on weekends and summer months when the sports field is being used. The District approved the agreement on March 13, 2012.

IMPACT ON CITY RESOURCES

The City's Capital Improvement Program budget includes the \$500,000 budgeted from Recreation-in-Lieu funds. The funds will be provided to the District upon approval of the agreement by Council.

POLICY ISSUES

The City Council has established a goal to increase the availability of sports fields in order to better meet demand while maintaining field quality. A partnership with the school district is consistent with Council Policy. The attached agreement does not represent a change in policy from the current joint use agreement with the District or with previous Council direction.

ENVIRONMENTAL REVIEW

The Environmental Impact Review is the responsibility of the District and this was completed in 2010.



Ruben Niño
Assistant Director of Public Works

PUBLIC NOTICE: Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

ATTACHMENT: A. Agreement for Joint Use of Community Facilities

AGREEMENT FOR JOINT USE OF COMMUNITY FACILITIES

THIS AGREEMENT FOR JOINT USE OF COMMUNITY FACILITIES (“Agreement”) made and entered into this ___ day of _____, 2012, by and between the CITY OF MENLO PARK, a municipal corporation (“City”), and the MENLO PARK CITY SCHOOL DISTRICT, an elementary school district of the County of San Mateo (“District”),

WHEREAS, the governing bodies of the above-named public entities have jurisdiction over the same territory and have the authority to organize, promote and conduct community recreation programs; and

WHEREAS, it is to the advantage of the City and the District to use each other’s facilities and to the advantage of the District for the City to maintain some District facilities.

NOW, THEREFORE, IT IS AGREED between the parties hereto:

1. Facilities. The “Facilities” which shall be jointly used are as follows:

a. The District Facilities include:

1. Hillview School Field and Tinker Park
2. Oak Knoll School Field and Baseball Field

b. The City’s Facilities include:

1. Nealon Park Tennis Court
2. Nealon Park

Specific conditions regarding the use of the Facilities, improvements, and responsibility for maintenance and collection of fees are described in detail in the attached Exhibits A, B, C and D, for each of the above listed Facilities respectively.

2. Community Use. The Facilities shall be available to all residents and/or property owners of the District and the City. It is not the intent of either party to exclude any City or District residents and/or property owners from the Facilities. Use of the Facilities shall be in accordance with District policy, Section 1330 (use of school facilities) (“School Facility Policy”), which clarifies the condition and regulations for community use, attached as Exhibit F, and City of Menlo Park Sports Field Policy, attached as Exhibit E (“City Field Policy”). Nothing in this Agreement shall be construed to limit the rights of the public to use school facilities as provided by District Policy No. 1330 or to limit or contravene any state law or regulation regarding use of school facilities. To the extent there is claimed to be any inconsistency between the School Facility Policy and the City Field Policy in the administration of this agreement, the City and District shall meet and confer in an attempt to resolve the alleged inconsistency. If no resolution is reached, the policy of the landowner of the affected Facility will prevail as to the inconsistency.

3. Term. This Agreement shall remain in full force for an initial term of fifteen (15) years ("Initial Term") unless earlier terminated. This Agreement shall continue in effect on a year-to-year basis after the expiration of the Initial Term, unless either party notifies the other party in writing of its election to terminate this Agreement effective at the expiration of the Initial Term, not less than ninety (90) days prior to such expiration.
4. Termination. This Agreement may be terminated in its entirety or as to any one or more of the Facilities effective immediately by mutual written agreement signed by both parties, or effective such other date as the parties may by mutual written agreement provide. Either party may terminate this Agreement in its entirety or as to any one or more of the Facilities by delivery of written notice of such intent to terminate, which termination shall become effective twelve (12) months following delivery of such intent to terminate ("Termination Date"). Such termination notice shall have been adopted or approved in open session of the governing board of the terminating party after due notice to the public and to the other party to this Agreement.

In the event the District terminates this Agreement in its entirety, terminates the City's use of the new sports field at Hillview School and/or Tinker Park, and/or makes future improvements that eliminate the sports field and/or Tinker Park, the District shall repay the City the cost of the City's contribution for the sports field at Hillview School, which represents a total cost of \$400,000 less depreciation as hereinafter described, and/or Tinker Park, which represents a total cost of \$100,000 less depreciation as hereinafter described. The reimbursement by the District to the City shall be determined by depreciating the value of the improvements at an annual rate of 8% from the time the improvements are completed and accepted by the District until the event causing repayment to the City. In the event the City has installed capital improvements at any of the District's Facilities (with the District's approval) and the District terminates this Agreement in its entirety or as to one of the Facilities for which the City has made capital improvements, then District shall reimburse the City its costs of installation for such capital improvements the City made under this Agreement based on the City's costs of such improvements and then depreciating the value of the improvements at an annual rate of 8% from the time the improvements are completed and accepted by the District until the event causing repayment to the City. The schedule for repayment of the reimbursement amount shall be agreed to by the parties but in no event should be shorter than one (1) year or more than four (4) years. If the payment schedule exceeds one year, interest on the unpaid portion shall accrue at the Local Agency Investment Fund's Quarterly Apportionment Rate in effect at the time of the Termination Date, running from the Termination Date and accruing annually until paid.

5. Dispute Resolution. If agreement cannot be reached between the parties as to the Termination Amount or the schedule for repayment or any other matter related to or arising out of this Agreement, the parties agree to submit such dispute to a mutually acceptable professional mediator and to negotiate in good faith toward reaching a resolution of the dispute prior to taking any legal action. Each party shall pay an equal

share of the mediator's fees and expenses and each party shall pay its own attorneys' fees and expenses in such mediation or subsequent court action.

6. Insurance. Each party shall carry its own policy of public liability insurance in amounts not less than One Million Dollars (\$1,000,000) or be a part of an equivalent risk pool, with an endorsement covering the joint use of Facilities provided for by this Agreement. Each party shall provide a certificate of insurance evidencing such coverage upon request of the other party.

In witness whereof, the parties here to have executed this Agreement on the respective dates set forth below.

CITY OF MENLO PARK

Dated: _____, 2012

By: _____
Alexander D. McIntyre, City Manager

MENLO PARK SCHOOL DISTRICT

Dated: _____, 2012

By: _____
Maurice Ghysels Ed.D, Superintendent

Its: _____

Attachments:

- Exhibit A – Hillview School Facilities
- Exhibit A-1 – Map of Hillview School Facilities
- Exhibit A – Oak Knoll School Facilities
- Exhibit B-1 – Maintenance Standards for Athletic Turf Fields
- Exhibit B-2 – Map of Oak Knoll School Facilities
- Exhibit C – Nealon Park Tennis Court
- Exhibit D – Nealon Park
- Exhibit E – Sports Field Use Policy
- Exhibit F – District Policy, Section 1330

EXHIBIT A
HILLVIEW SCHOOL FACILITIES

NOW, THEREFORE, IT IS AGREED between the parties hereto that the following provisions shall apply to the Hillview School Facilities:

1. IMPROVEMENTS

1.1 City Contribution. Joint use of the Hillview School Facilities by the District and the City is of sufficient value and economic advantage to the citizens and taxpayers of the District and the City such that the City is willing to and shall contribute Five Hundred Thousand Dollars (\$500,000) toward the development of the sports field with synthetic turf and replacement of Tinker Park, with the District contributing and being solely responsible to pay all sums in excess of the City's contribution. Upon City Council approval of the Agreement, the City agrees to pay Two-Hundred Fifty Thousand Dollars (\$250,000) within thirty (30) days of execution of the contract to construct the sports field by all parties thereto; Two Hundred Thousand Dollars (\$200,000) within thirty (30) days of the commencement of work on the sports field; and Fifty Thousand Dollars (\$50,000) upon completion of the sports field and Tinker Park. Any physical improvements shall become the property of the District, subject to the District's repayment obligations upon termination.

In the event the City desires to make improvements on or to the Facilities not covered by the above financial contribution, the District shall have the right to approve of any such plans prior to commencement of work by the City. Any physical improvements shall become the property of the District, subject to the District's repayment obligations upon termination.

1.2 Future Improvements. In the event the District intends to rebuild or remodel the Facilities ("Future Improvements") and that would result in the elimination of, or otherwise cause damage to the sports field and/or Tinker Park, the District shall consult with the City prior to making such Future Improvements.

1.3 Damage to Existing Facilities. In the event Future Improvements or use of the Facilities by the District cause damage to or otherwise conflict with the use of the sports field and/or Tinker Park, the District shall pay for and be responsible for any and all costs associated with the relocation, repair and/or restoration of the Facilities to a usable condition. In the event damage to the Facilities occurs as a result of scheduled use as defined in Section 2.1, the City shall pay for and be responsible for any and all costs associated with repairing or restoring the Facilities to a useable condition. Costs associated with damage that occurs from neither District nor City authorized activities shall be split equally between the parties.

1.4 Use. No parking of motorized vehicles shall be permitted on the sports field and/or Tinker Park. The use of the sports field shall be consistent with guidelines of the manufacturer and warranty requirements for all activities held on the field by either party.

1.5 Elimination of Facilities. In the event Future Improvements eliminate the sports field and/or Tinker Park or make it impracticable to repair, restore or relocate them, the District shall repay the City's financial contribution(s) described in Paragraph 1.1 above, in accordance with the terms and provisions of Paragraph 4 "Termination" of the Agreement.

2. USE.

2.1 Scheduled Use. The City shall schedule use of the Facilities by all users, except use by the District. The District has first priority to the use of the sports field at all times, including hours of school operations, extra curricular activities beyond the school day or school year, and other activities as required by the District. The District shall notify the City by September 30th of each year in which this Agreement is in effect of any scheduled uses it intends to make of the Facilities occurring outside of hours of school operations for the following calendar year. The Facilities shall be available to the City for scheduled uses during the regular school year for after-school community recreation programs, on Saturdays, Sundays, school holidays and summer vacation months for the purpose of community programs. Scheduling of the facilities for such uses during times and hours of non-District use shall be consistent with District Policy 1330 (Use of School Facilities) and the City of Menlo Park Sports Field Policy.

2.2 Unscheduled Use. The Facilities shall be available for non-organized recreational activities as City parks and playgrounds throughout the year during times when not in use by the District and when not scheduled by the City for organized scheduled activities. The field may be closed for any period during which it has been determined by mutual agreement to be unusable.

2.3 Tinker Park. Tinker Park shall be available for public use as a City Park with the same hours as other City Parks which is from dusk to dawn or as modified by the City.

3. MAINTENANCE & FEES.

3.1 Areas of Responsibility. The area of responsibility is the sports field, Tinker Park and the restrooms as shown on the map attached as Exhibit A-1. The operation and maintenance of the Facilities shall be as follows:

3.2 City Responsibility: The City shall be entitled to collect fees from scheduled use of the Facilities other than District-related activities to help defray the cost of maintenance. The City shall maintain the Facilities as follows:

3.2.1 Athletic Fields: The athletic turf field shall be maintained as recommended by the manufacturer in order to meet warranty requirements.

3.2.2 Tinker Park: The City will be responsible for full maintenance of the park within the fenced area, including park furniture, sod, play surface, fencing, irrigation and play equipment. All maintenance shall be performed in a manner compliant

with any requirement of the Division of the State Architect for school facilities or any other regulatory requirement for schools.

3.2.3 Restrooms: The City will be responsible for cleaning the restrooms on weekends and summer months when the sports field is being used by a group authorized and scheduled by the City. The District will be responsible for cleaning the restrooms at all other times. The restrooms will be cleaned to the level the District cleans their school restrooms, which consists of sanitizing floors, sinks and toilets. The cleanliness of the restrooms will be achieved after community use by the City and prior to use by the District. The City is also responsible for any damage to the facility during City scheduled events.

3.2.4 Ancillary facilities (running track, parking lot and basketball courts): the City will be responsible for general site cleaning and off-hauling all garbage and trash following events prior to the next beginning school day.

3.2.5 The City is responsible for any damage to the track, basketball courts, fencing, and other improvements during City scheduled activities, events, and uses by groups.

3.2.6 The City shall be responsible to remove trash from the premises after City authorized activities, events, and uses by City scheduled groups.

3.2.7 The City shall be responsible for damage that occurs by City scheduled user groups that do not abide by operational regulations. City and District are to develop operational regulations jointly for the new synthetic field and track.

3.3 District Responsibility: The District shall pay for all utility costs, including, but not limited to, the watering and associated meter costs for Tinker Park. District shall cover the water costs for watering a minimum of one fifteen (15) minute cycle of sprinkling, three (3) times per week from April through June and October and a minimum of one fifteen (15) minute cycle of sprinkling, four (4) times per week from July through September. This irrigation schedule may be adjusted upon mutual agreement between the City and District.

3.3.1 The District shall maintain all equipment and facilities not specifically outlined in this Agreement, including maintenance of the restrooms on weekdays during the school year.

3.4 Joint Responsibility: The cost of replacing the synthetic turf or repairing damage to the synthetic turf, which has a warranty of eight (8) years, shall be split equally between the District and the City; provided, however, upon replacement of the synthetic turf, the City's share of the cost of the turf shall be added to its cost basis and shall be subject to depreciation and repayment to the City if either party subsequently terminates this Agreement per the provisions of Section 1.5 above. Costs of damages and repairs which the cause of responsibility can not be determined shall be shared equally between the District and City.

3.4.1: All decisions involving or triggering a claim for sharing of

costs pursuant to this provision shall be made following consultation between the Parties about availability of funds in relation to other funding priorities.

3.5 No provision of this Agreement establishing that a party to this Agreement shall be responsible for any damage, cost or injury shall be interpreted to reduce or offset the responsibility of any insurance carrier, indemnitor, tortfeasor or any other non-party to this Agreement.

EXHIBIT B
OAK KNOLL SCHOOL FACILITIES

NOW, THEREFORE, IT IS AGREED between the parties hereto that the following provisions shall apply to the Oak Knoll School Facilities:

1. IMPROVEMENTS.

1.1 Damage to Existing Facilities. In the event Future Improvements or use of the Facilities by the District cause damage or otherwise conflict with the use of the sports field, the District shall pay for and be responsible for any and all costs associated with the relocation, repair and/or restoration of the Facilities to a usable condition. In the event damage to the Facilities occurs as a result of scheduled use as defined in Section 2.1, the City shall pay for and be responsible for any and all costs associated with the relocation, repair and/or restoration of the Facilities to a usable condition. Costs associated with damage that occurs from neither school nor city authorized activities shall be split equally between the parties.

1.2 Use. No parking of motorized vehicles shall be permitted on the sports field.

2. USE.

2.1 Scheduled Use: The City shall schedule use of the Facilities by all users, except the District. The District has first priority to the use of the sports field at all times, which includes hours of school operations, extra curricular activities beyond the school day or school year and other activities as required by the District. The District shall notify the City by September 30th of each year in which this Agreement is in effect of any scheduled uses it intends to make of the Facilities occurring outside of hours of school operations for the following calendar year. The Facilities shall be available to the City for scheduled uses during the regular school year for after-school community recreation programs, on Saturdays, Sundays, school holidays and summer vacation months for the purpose of community programs. Scheduling of the facilities for such uses during times and hours of non-District use shall be consistent with District Policy 1330 (Use of School Facilities) and the City of Menlo Park Sports Field Policy.

2.2 Unscheduled Use. The facilities shall be available for nonorganized recreational activities, on an unscheduled basis, for use as City parks and playgrounds throughout the year during times when not in use by the District and when not scheduled by the City for organized scheduled activities. The field may be closed for any period during which it has been determined by mutual agreement to be unusable.

2.3 Closure. The District shall have the right to close the field for periods of reasonable length in order to allow the field to restore itself, including without limitation for restoration after heavy rains or other inclement weather.

3. MAINTENANCE & FEES.

3.1 Area of Responsibility. The area of responsibility is the turf area as shown within the map attached as Exhibit B-2. City is also responsible for the maintenance of the baseball backstop, infield, fencing, and benches. City is responsible for damages that occur during City authorized activities, events, and uses by the user groups for the facilities identified above as well as the ancillary facilities such as parking lot, play area and equipment, running track, etc. The District is responsible for all other damages.

3.2 City Responsibility: The City shall be entitled to collect fees from scheduled use of the sport field and baseball field other than District uses to help defray the cost of maintenance.

3.2.1 Athletic Fields: The athletic turf field shall be maintained as described in the attached Exhibit B-1.

3.2.2 The City is responsible for removal of trash from the Facilities following City scheduled activities, events, and use by City scheduled groups, prior to the beginning of the next school day. The District is responsible for trash removal at all other times.

3.3 District Responsibility: The District shall pay for all utility costs, including, but not limited to paying for the cost of watering and associated meter costs. District shall cover the water costs for watering a minimum of one fifteen (15) minute cycle of sprinkling, three (3) times per week from April through June and October and a minimum of one fifteen (15) minute cycle of sprinkling, four (4) times per week from July through September. This irrigation schedule may be adjusted upon mutual agreement between the City and District.

3.3.1. The District shall maintain all equipment and facilities not specifically outlined in this Agreement, except as provided in section 3.4.

3.3.2 The District shall be responsible for the track around the sports field, except as provided in section 3.4.

3.3.3. The District will be responsible for minor irrigation breaks or irrigation head replacement. The District will be responsible for major irrigation repairs which include valve and controller replacements, except as provided in section 3.4.

3.3.5 The District shall not be responsible for any costs, losses, injuries or damages in any way related to the use of portable restroom facilities brought to the premises by any person or entity for City authorized activities.

3.4 Joint Responsibility: The cost of replacing major turf areas outside the City's annual field renovation project shall be split equally between the District and the City. Costs of damages and repairs which the cause of responsibility can not be determined shall be shared equally between the District and City.

EXHIBIT B-1
MAINTENANCE STANDARDS FOR ATHLETIC TURF FIELDS

TURF MANAGEMENT

A. Mowing

1. Turf will be mowed weekly, once every seven (7) days.
2. Turf will be mowed forty (40) times each year; weekly from March through October; Once a month from November through February.
3. Turf will be mowed with rotary or reel type mowers only. All blades shall be kept sharp.
4. Turf clippings shall not be caught, however large piles of clippings shall be scattered.
5. Turf shall be mowed to a height of 2" to 2.5".

B. Aeration

1. Turf shall be aerated twice each year - once in the early spring and once in early fall.

C. Fertilization

1. Turf shall be fertilized twice annually:
2. All fertilization and weed control methodology must be compliant with the Healthy Schools Act of 2002, other relevant State and Federal regulations, and prudent industry standards.

SCHEDULE OF WORK

A. Mowing and Aeration

1. Mowing and aeration shall be done on weekdays - Monday through Friday, between the hours of 7:00 a.m. and 3:30 p.m.
2. Work shall not impede the educational programs or reasonable operations of the school. Work shall stop if children are present in the immediate area of any equipment (i.e. recess and lunch hours).

B. Fertilization and Weed Control

1. Fertilization and weed control shall be done on off school hours only. Days and times shall be coordinated with the City and School District.
2. All herbicides shall be applied by a licensed California Pest Control Operator.
3. Weed control to be scheduled at the school sites when no classes are to be held that day.

EXHIBIT B-2 MAP OF OAK KNOLL SCHOOL

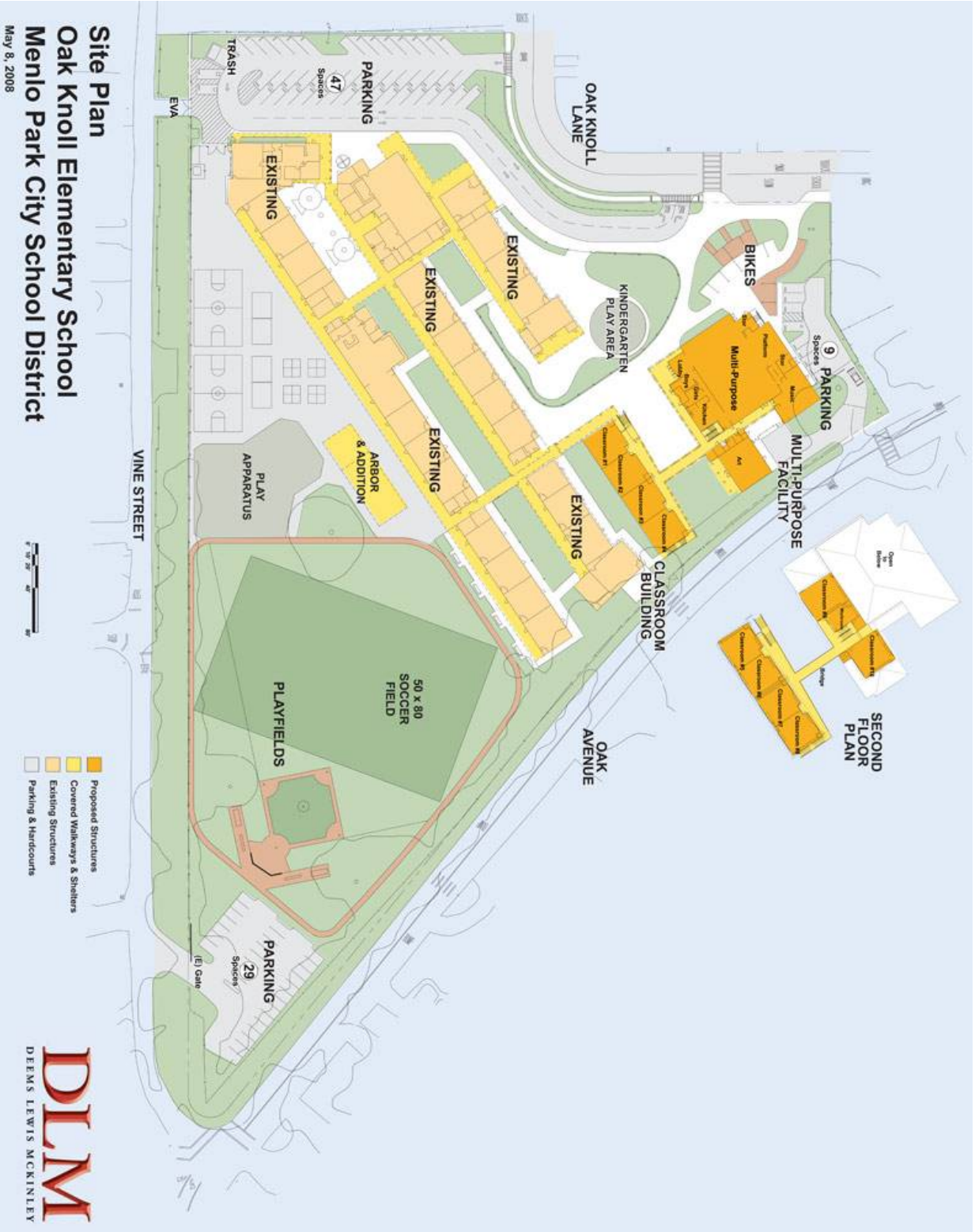


EXHIBIT C
NEALON PARK TENNIS COURTS

NOW, THEREFORE, IT IS AGREED between the parties hereto that the following provisions shall apply to the Nealon Park Tennis Courts:

1. USE.

1.1 Scheduled Use. The City agrees to allow the District to use any of two (2) of the tennis courts at Nealon Park. The court and time of use shall be determined by the City of Menlo Park Community Service Department. Scheduling of the facilities shall be the responsibility of the Community Services Department of the City of Menlo Park and shall be in accordance with City of Menlo Park Tennis Court Policy along with other scheduled use by the City. Requests for scheduled use by the District shall be made timely by either the District office or the Hillview Parent-Teacher Organization.

1.2 The District and City upon mutual agreement may add other City tennis courts, including additional courts at Nealon Park or courts at Willow or Burgess Parks to this Agreement to accommodate the District's tennis program.

2. MAINTENANCE & FEES.

2.1 The operation and maintenance of the Facilities shall be as follows:

2.2 City Responsibility: The City shall be entitled to collect fees from scheduled use of the Facilities other than District use to help defray the cost of maintenance. The City will not charge the District for the use of the Facilities. The City will be responsible for the maintenance of the Facilities.

2.3 District Responsibility: The District shall be responsible for damage caused to the Facilities while in use by the District. The use of the courts shall be only for the purposes of playing tennis.

2.4 Joint Responsibility: The District and City shall share the cost of resurfacing the two (2) tennis courts which is estimated to occur every ten (10) years or when it is determined by the City that the court needs to be resurfaced. The District's percentage share of the cost shall be fifty percent (50%) not to exceed of \$10,000.

EXHIBIT D
Nealon Park

NOW, THEREFORE, IT IS AGREED between the parties hereto that the following provisions shall apply to Nealon Park:

1. USE.

1.1 Scheduled Use. The City agrees to allow the District to use Nealon Park for recreational uses while Hillview School is under construction. The time of use shall be determined by the City of Menlo Park Community Service Department. Scheduling of the facilities shall be the responsibility of the Community Services Department of the City of Menlo Park and shall be in accordance with City of Menlo Park Sports Field Policy along with other scheduled use by the City.

2. MAINTENANCE & FEES.

2.1 The operation and maintenance of the Facilities shall be as follows:

2.2 City Responsibility: The City will not charge the District for the use of the Facilities. The City will be responsible for the Maintenance of the Facilities.

2.3 District Responsibility: The District shall be responsible for damage caused to the Facilities while in use by the District.

Exhibit E
Sports Field Use Policy

COMMUNITY SERVICES DEPARTMENT

701 Laurel Street, Menlo Park, CA 94025 (p) 650.330.2220 (f) 650.324.1721

I. Purpose

- A. To identify the roles of the Field User Groups, City of Menlo Park Community Services Department, and Parks & Recreation Commission
- B. To explain the City of Menlo Park sports field use requirements, fees, procedures, and policies

II. Field User Group Approval Process

- A. Before a Field User Group can make a request for field space for seasonal sports leagues and tournaments, the Field User Group application (attached) must be validated by the Parks & Recreation Commission.
- B. To become a Field User Group, the group must apply in writing to the Parks & Recreation Commission each year. Field User Group Application must be received by the Community Services Department at least three weeks prior to the November Commission meeting (generally the third Wednesday of the month). The Commission will review and discuss the information at the November meeting and hold a public hearing at a subsequent meeting before validation.
- C. The Parks and Recreation Commission will validate the returning or new group if all of the Field User Groups conditions and requirements are satisfied.
- D. If a new Field User Group requests a field space after the validation process, the Field User Group will only be able to use field space on a probationary status if space is available.
- E. The Community Services Department will provide written notification to the Field User Groups of their approved status.

III. Field User Group Application

- A. The Field User Group Application must include the following:
 - 1. Written league rules and guidelines
 - 2. Annual schedule for the organization, including practice and game

- dates, tournament dates and any special events
3. Annual list of board members with their contact information (address, phone number, and email address)
 4. Annual roster of league participants showing residency status (see IV below) and age
 5. Description of Field User Group's activities and how the field(s) will be utilized
 6. For non-profits, proof of non-profit 501c3 status
 7. Valid Certificate of Insurance
 8. A short presentation of the above to the Parks and Recreation Commission

IV. Menlo Park Residency

- A. A Menlo Park resident will be defined as:
 1. Participants who have a permanent address in Menlo Park
 2. Participants who attend an Accredited School within the Menlo Park city limits

- B. Priority of status will be depend on the qualifying criteria, including percentage of Menlo Park residents (see Field Priority list)

- C. Field User Groups will need to provide data of the participant database or team rosters to validate participant's resident or non-resident status

V. Field Capacity Limits

- A. The field use limit for each field user group will be determined by the Community Services Department based on overall sport fields capacity and the age designation of the individual field.

- B. If the Field User Group requires more space than their field use limit, the Field User Group will be granted additional field space or may request additional field space on the following conditions:
 1. Field allocations have been granted for all of the valid Field User Groups' requests.
 2. There is remaining field capacity.

VI. Field Allocation

- A. The Community Services Department will make every attempt to accommodate all groups and allow for a diverse use of the City's sports fields.

- B. Field User Groups can request a particular field during the reservation process; however, the Community Services Department reserves the right to make the final decision regarding how to allocate field space.

C. Prior use by a particular Field User Group does not guarantee future allocations to a specific field.

D. Factors affecting amount of field space allocation include:

1. "On season" programs vs. "Off season" programs
2. Number of Menlo Park residents in the program
3. Percentage of Menlo Park residents in the program
4. Ages of participants vs. the designated field space for age groups

VII. Field Use Priority

The qualifying criteria for field use priority is:

1. City sponsored youth programs
2. City sponsored adult programs
3. School district sponsored youth programs
4. Returning youth programs with greater than 50% residents
5. Returning adult programs with greater than 50% residents
6. Programs offering scholarships or reduced fees to lower-income participants.
7. New youth programs with greater than 50% residents
8. New adult programs with greater than 50% residents
9. All "other" programs

VIII. Field User Group Fees

A. All of the fees required to use the Athletic Fields are stated in the City of Menlo Master Fee Schedule. The Master Fee Schedule is reviewed by the Community Service Department Staff each year. City reserves the right to increase fees to offset administrative and parks maintenance costs.

B. Fees will be determined per hour per team.

C. Field User Groups will be required to provide payment based on the annual field reservation schedule. The schedule will be set annually by Community Services Staff.

D. Field User Groups operating sports leagues will be required to pay 50% of the balance two-weeks prior to the league start date. The remaining balance will be due two weeks prior the final league date.

E. Field User Groups requesting field space for a limited time or non-league use must pay in full at the time of the field reservation.

F. Field User Groups are allowed to make minor adjustments to the field reservation request up to four weeks prior to the league start date (if space is available). The approved field reservations will be available online to review. All change requests must be in writing. Cancellations

are subject to a \$15.00 processing fee.

G. Field User Groups will be charged for the dates and times requested on the field permit. Rainouts and cancelled practices or games designated by the leagues or coaches will not be refunded.

IX. Field User Group Communication

A. Each Field User Group will designate a Coordinator for their organization. All communication between the City and the organization will be through the designated Coordinator.

B. At the bi-annual Field User Groups meeting, the Community Services Department staff will discuss with the Field User Group coordinators the schedule for the upcoming season(s) and review the Athletic Field policies. Additional meetings may be called, as needed.

C. Field User Groups are responsible for informing their participants using the facility of all of the field rules and must ensure the enforcement of these rules.

D. Field User Group Coordinators will be able to communicate with city staff by email, phone, or in person. The coordinators will also be able to access approved the field reservations online.

E. Probation

1. If any Field User Group does not follow any of the stated field policies, the Field User Group may be placed on probation and is subject to having their Field Permit suspended or revoked.
2. A letter will be given to the Field User Group to notify them of the probation. The Field User Group has 14 days to appeal the probationary status.

F. Appeal Process

1. In the case of a dispute over the meaning, interpretation or intent of any portion of these field use policies, User Groups may appeal decisions to the Director of the Community Services Department.

X. Field Use Requirements

A. Field Reservation Forms can be submitted twice a year. For field use between January 1 and June 30, field reservation forms must be turned in by 5pm December 1. For field use between July 1 and December 31, field reservation forms must be turned in by 5pm May 1 to the Field Reservation Coordinator. Field reservation forms turned in after these specified dates will be given space on a space available basis.

B. Field User Groups may not loan or sublet to any other organization or individual any of the privileges or services provided by the City.

C. Each User Group is limited to conducting only the activities specified in their Field Use Permit. Examples of activities that will not be allowed without prior approval include clinics, conditioning camps, tournaments or off – season use, or any unauthorized use.

D. An organization conducting an activity on City fields must provide adequate insurance to the Community Services Department prior to the start of the activity. All groups must provide a certificate of insurance naming the City, its employees, agents and officers as an additional insured.

E. The Community Services Department reserves the right to close any field that is maintained by the City for safety reasons (example: rainouts, park improvements). In the event of closure, the Department will attempt to contact each field user and will post a notice on the Field Closure Hotline at (650) 330-2590.

F. All city-scheduled field closures must be adhered to by all Field User Groups. Failure to do so may result in the loss of field use.

G. Any coach or team that uses a closed field is subject to a one – year ban from using City facilities.

H. All participants, coaches, and spectators must refrain from excess noise. No amplified sound is allowed without a special use permit.

I. Participants should store all personal belongings properly. Personal belongings should not block any walkways or be left in areas that could result in safety hazards.

J. Participants may not enter the field prior to rental time and never without proper supervision or coaches or event coordinators being present.

K. All participants must exit the area at the conclusion of the scheduled rental time so other programs may begin on time.

L. When possible, a 15 minute open time period will be used to allow one group to clear the field before another starts. Groups must vacate fields on time and not use this open period for game time.

M. City staff must approve posting of signs or setting up billboards prior to posting. These items are not to be stored on City property or in public areas.

N. No vehicles are allowed on grounds or surrounding grass areas. Cars

must use designated parking spaces. Be mindful of emergency exit areas, fire lanes, and loading and unloading areas.

O. Groups shall replace or be billed for any destroyed or damaged City equipment or property.

P. Groups are to provide their own recreational equipment. All special activities or equipment must have prior approval.

Q. All areas are to be left clean after any activity. Groups are required to remove all garbage from the premises.

R. Pets are not allowed to be off leash on playing fields during scheduled activities.

S. No eating, smoking, or alcohol on sports fields.

T. The Community Services Department Staff will enforce the use of the fields and ensure that all Field User Groups adhere to the above requirements of the City of Menlo Park.

EXHIBIT F
District Policy, Section 1330

USE OF SCHOOL FACILITIES

The Governing Board supports the use of the District's school facilities as Civic Centers and recognizes that many activities benefit the youth of the community and contribute to the educational experiences of pupils and contribute to the general welfare of the community by housing important activities.

The Board authorizes the use of school facilities by community groups for purposes provided for in the Civic Center Act when such use does not interfere with school activities.

In accordance with the Civic Center Act, the Board shall charge fees for the use of facilities for activities at different levels depending upon whether the organizations are "non-profit" or "for-profit." The Board will establish reasonable regulations that protect the facilities and the furnishings and equipment that are housed within them.

All school-related activities (clubs, class events, etc.) shall be given priority in the use of facilities under the Civic Center Act. Thereafter, priority shall be provided to non-profit organizations which benefit children of the Community. The use of facilities shall be determined on a first-come, first-served basis.

Definition of Use and Associated Fees

Since school district financial resources are limited and the community use of facilities can result in significant costs, the District may receive some or all of these costs pursuant to Education Code 38139. In accordance with the Civic Center Act, the Board established the following categories of use and assessment of fees:

1. Use by Non-profit Youth and School Oriented Organizations:

The Board authorizes the use of school buildings without charge by non-profit organizations, clubs or associations organized to promote youth and school activities. These groups include, but are not limited to, Girl Scouts, Boy Scouts, Camp Fire, Inc., Parent-Teacher Organization events and the organizations and services that it sponsors (that are not contracted with for-profit businesses), School Community Advisory Councils, Educational Foundations, and other organizations that support and/or contribute to youth. Field use by non-profit community youth athletic organizations will be charged a direct cost that correlates with local and regional standards unless otherwise adjusted by the Superintendent or designee.

2. Use by Organizations that are For-Profit:

The Board authorizes the assessment of a cost for the use of facilities to organizations that may be directly contributing to the youth of the community, but are "for-profit."

Additionally, the district costs may be charged to municipalities and alumni organizations for meetings and/or events, depending upon the nature of the activity. In the event of reciprocal arrangements with municipalities and other educational agencies, fees may be waived. This assessment is made to ensure that the costs associated with such use will not encroach upon the general funds that support regular district and school operations.

Use of school facilities by organizations, which are not beneficial to youth or the community, such as entertainment, or meetings where admission is charged or charitable events that do not contribute to children or the welfare of the community, will be discouraged.

For each of the categories above, a district cost may be assessed for the compensation of a district employee to provide supervision and custodial services.

Legal Reference:

EDUCATION CODE

10900-10914.5 Community Recreation Program

38130-38138 Civic Center Act: Use of school property of public purposes

ATTORNEY GENERAL OPINIONS

79 Ops. Cal. Atty. Gen 248 (1996)

COURT DECISIONS

Lamb's Chapel v. Center Moriches Union Free School District (1993) 113 S.Ct 2141

Cole v. Richardson (1972) 405 U.S. 676, 92 S.Ct. 1332

Connell v. Higgenbotham, (1971) 403 U.S... 207, 91 S.Ct. 1772

ACLU of So. Calif v. Board of Education of San Diego, (1963) 59 Cal. 2d 224

ACLU of So. Calif v. Board of Education of Los Angeles, (1963) 59 Cal. 2d 203

ACLU of So. Calif v. Board of Education of San Diego, (1961) 55 Cal. 2d 906

ACLU of So. Calif v. Board of Education of Los Angeles, (1961) 55 Cal. 2d 167

Policy

Adopted: June 26, 2003

Revised: June 14, 2011

MENLO PARK CITY SCHOOL DISTRICT

USE OF SCHOOL FACILITIES

Application for Use of Facilities

The Superintendent or designee shall maintain application procedures and regulations for the use of school facilities which:

1. Encourage and assist groups desiring to use school facilities for approved activities.
2. Preserve order in school buildings and on school grounds, and protect school facilities. If necessary, a person may be designated to supervise this task.
3. Ensure that the use of facilities or grounds is consistent with the use of the school facilities or grounds for school purposes and does not interfere with the regular conduct of school work. (Education Code 38133)

Any persons applying for the use of school property on behalf of any society, group or organization shall present written authorization from the group to make the application.

Civic Center Use

Subject to district policies and regulations, school facilities and grounds shall be available to citizens and community groups as a civic center for the following purposes: (Education Code 38131, 38132)

1. Public, literary, scientific, recreational, educational or public agency meetings
2. The discussion of matters of general or public interest
3. The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization
4. Childcare programs to provide supervision and activities for children of preschool and elementary school age
5. The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies
6. Supervised recreational activities including, but not limited to, sports league activities that are arranged for and supervised by entities, including religious organizations or churches, and in which youths may participate regardless of religious belief or denomination
7. A community youth center
8. Mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare

USE OF SCHOOL FACILITIES

9. Other purposes deemed appropriate by the Governing Board

Restrictions

School facilities shall not be used for any of the following activities:

1. Any use by an individual or group for the commission of any crime or any act prohibited by law
2. Any use of school facilities or grounds which is inconsistent with their use for school purposes or which interferes with the regular conduct of school or school work
3. Any use which is discriminatory in the legal sense
4. Any use which involves the possession, consumption or sale of alcoholic beverages or any restricted substances on school property
5. According to state law, the use of tobacco products on school property
6. Any use that would substantially and adversely impact the adjacent neighborhood to the school

Misuse, Damage and Liability

Groups or persons using school facilities shall be liable for any property damages caused by the activity. The Board may charge the amount necessary to repair the damages and may deny the group further use of school facilities.

Any group using school facilities shall be liable for any injuries resulting from its negligence during such use. The group shall bear the cost of insuring against this risk and defending itself against claims arising from this risk and provide the district with evidence of liability insurance and include the district as an additional insured on its liability policy.

The Superintendent or designee may require a hold harmless agreement when warranted by the type of activity or the specific facility being used.

The following are other reasonable regulations that shall ensure the appropriate use of facilities and protect the district facilities, furnishings and equipment.

1. The use of district-owned computer technology equipment shall not be authorized to individuals and/or groups requesting the use of facilities.
2. Authorization for the use of any equipment and furniture will be made on a case by case basis by the Superintendent or designee.

USE OF SCHOOL FACILITIES

3. It will be the responsibility of the user of facilities to restore the facility to the status prior to the use.
4. Facilities where confidential personnel and student information is stored such as administrative and special education spaces, will not be available for use.
5. The instructional setting of classrooms or other facilities shall be preserved by the user. Materials, white boards and other aspects of the instructional setting shall not be changed or altered.
6. School keys must remain in the possession of authorized school district employees or identified school representatives. Buildings will be opened, attended and closed by an authorized employee or representative of the district.
7. An approved application may be revoked with reasonable notice when school facilities are needed for school and/or district purposes.
8. The site administration is responsible for assigning facilities to be used and may wish to restrict the use of classrooms if such use may negatively impact ongoing classroom or student projects and activities. The site administration may also restrict usage if it is determined that a classroom or facility is unsuitable for use by an outside organization.
9. The use of outdoor facilities, such as athletic fields, during inclement weather, may be restricted because of substantial wear and tear on the facility.
10. Restrictions on use may be imposed for non-profit oriented organizations serving youth if the organization does not intend to serve the youth of the local community (scheduling, wear on facilities and other factors regarding impacts will be considered).

USE OF SCHOOL FACILITIES

Schedule of Rates for Use of District Facilities

FACILITY	<u>NON-PROFIT</u>	<u>FOR-PROFIT</u>
Classroom	\$12 per/hour	\$30
Library	\$17 per/hour	\$35
Multipurpose Room	\$50 per/hour	\$80
Restrooms*	\$10 per/hour	\$20

Fields: Costs of fields will be assessed at the rate established by the Community Services Department of the City of Menlo Park (see Exhibit 1330 B) or will be adjusted prior to use by authorized community athletic leagues according to the level of volunteer labor and donations, as defined by the Superintendent or designee.

Additional costs for supervision and custodial services for a district employee may be assessed if the facility is not open (approximately \$35 - \$40 per hour).

Fees for "for profit" businesses will be reduced to the "non-profit" rate if the business provides scholarships for students identified by the District as "low income" at the level which is stipulated by the sponsoring School Parent-Teacher Organization or the District.

Fees for the use of the multi-purpose rooms or fields may be reduced by the Superintendent or designee in the event the number of participants is small and the impact on the facility is deemed less than significant.



ADMINISTRATIVE SERVICES DEPARTMENT

Council Meeting Date: March 27, 2012
Staff Report #: 12-050

Agenda Item #: D-4

CONSENT CALENDAR: Authorize Mayor Keith to Send a Letter to the San Mateo County Mosquito & Vector Control District Requesting Improved Financial Control and Oversight

RECOMMENDATION

Staff recommends that the City Council authorize Mayor Keith to sign a letter to the President of the San Mateo County Mosquito & Vector Control District requesting improved financial controls and oversight, including consideration of San Mateo County absorbing the District. Staff also recommends the Council authorize Mayor Keith to send a separate letter requesting the San Mateo Civil Grand Jury investigate the perceived lack of fiscal control and offer solutions for improved oversight and stewardship of County taxpayer funds.

BACKGROUND

San Mateo County Mosquito & Vector Control District (District) has received considerable attention recently for alleged embezzlement and mismanagement. At the February 28, 2012 City Council meeting, Mayor Keith and Councilmember Fergusson referenced a letter recently received from San Carlos Mayor Klein, and requested the Council consider sending a letter to the District expressing the Council's concerns. A copy of Mayor Klein's letter is attached (Attachment A).

ANALYSIS

Unlike San Carlos, to date the City of Menlo Park has received no public comment or testimony at City Council meetings. The City did receive a Press Release (Attachment B) from the District acknowledging that the "District has been the apparent victim of theft, fraud, forgery and embezzlement by two former employees,...believed to total more than \$647,000".

While the two employees/suspects are under investigation, there is further concern that the management accountability for such criminal acts is not being sufficiently addressed by the District and that the structure of the District creates a lack of accountability to the tax payers. Each City Council in San Mateo County appoints a member to the Board, resulting in a very large (21 members) District Board. Boards with a large number of members can be cumbersome. Further, once appointed, the Council appointee has no

mandatory reporting obligation or communication with the appointing City Council. This lack of structured oversight results in the Board potentially working without sufficient public input and oversight. A draft letter is attached for Council consideration, including a cover letter to the District President, attached to a letter to the San Mateo Civil Grand Jury.

After this report was prepared, the City received a letter from Samuel Lerner, Board President of the District which provides background and an update on corrective action undertaken by the District. The letter is included as Attachment D.

IMPACT ON CITY RESOURCES

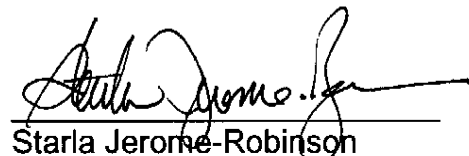
There is no direct impact to City resources, but the potential mismanagement which provided opportunity for alleged theft, fraud, forgery and embezzlement by two former District employees erodes confidence in the stewardship of public entities such as the City. Further, by the District's estimate, \$647,000 of tax payer funds were allegedly embezzled.

POLICY ISSUES

The structure of the District may not currently provide for sufficient oversight. The composition and appointment style of members to the Board may be too cumbersome to provide meaningful direction to the District or provide adequate accountability.

ENVIRONMENTAL REVIEW

The project is exempt under Class 1 of the current State of California Environmental Quality Act Guidelines.



Starla Jerome-Robinson
Assistant City Manager

PUBLIC NOTICE: Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

ATTACHMENT:

- Attachment A: Letter from San Carlos Mayor Klein
- Attachment B: December 5, 2011 Press Release from the District
- Attachment C: Draft letter to Mr. Samuel Lerner President, Board of Trustees San Mateo County Mosquito & Vector Control District
- Attachment D: March 19, 2012 Letter from Mr. Samuel Lerner President, Board of Trustees

CITY OF SAN CARLOS



February 29, 2012

Mr. Samuel Lerner
President, Board of Trustees
San Mateo County Mosquito & Vector Control District
1351 Rollins Road
Burlingame, CA 94010

Re: San Carlos City Council – Request for Civil Grand Jury Investigation – San Mateo County Mosquito & Vector Control District

Dear Mr. Lerner,

I am writing to you on behalf of the San Carlos City Council. At the Council's meeting held on February 13, 2012 the Council unanimously voted to send a letter to the Mosquito District Board as well as one to the Civil Grand Jury. It also asked that copies of letter to the Civil Grand Jury (see attached letter) be sent to the County Board of Supervisors and every City Council in the County so that they may consider a similar request for an investigation of the Mosquito District by the Civil Grand Jury.

These actions by the City Council were triggered by recent events at the San Mateo County Mosquito and Vector Control District involving the alleged embezzlement of funds, management and hiring issues related to the alleged events and the response of district management.

In recent months, members of the City Council have become aware of issues at the Mosquito District through phone calls and discussions from district employees, their representatives and the public. The Council has also discussed the matter in open session as noted above.

We applaud the courage and efforts of Betsey Schneider, the San Carlos representative to the Mosquito Board in taking the alleged irregularities that she spotted as a Board Member to the management of the district and later to the County Counsel. This is the kind of civic stewardship that we expect from public officials, commissioners and board members. While it is sometimes difficult, the Council is gratified to see that Ms. Schenider's efforts are now leading to a much needed review of these matters.

From testimony heard at the February 13, 2012 meeting, the Council understands that the Mosquito Board has taken some initial actions to review the recent events that have occurred at the district. This apparently includes Board action to place the current District Manager on a Performance Improvement Plan (PIP). The Council is pleased to hear that the Mosquito Board is taking action in this area and looks forward to hearing about additional action steps that the Board will take in the future regarding these matters.

As I noted in our letter to the Civil Grand Jury, it is both very appropriate and it is a review of these matters needs to be done – the sooner the better – to restore the public’s confidence and faith in the work that all of us do as guardians of the public trust.

Sincerely Yours,



Andy Klein
Mayor

cc: San Carlos City Council
Board Members, San Mateo County Mosquito & Vector Control District
San Mateo County Board of Supervisors
Mayor & City Council Members, Cities of San Mateo County
City Manager
Assistant City Manager
City Attorney
Ms. Betsy Schneider

Attachment:

- Mayor’s Letter to the San Mateo County Civil Grand Jury

CITY OF SAN CARLOS



February 29, 2012

Mr. Bruce MacMillan
Foreman
San Mateo County Civil Grand Jury
400 County Center
Redwood City, CA 94063-1655

Re: San Carlos City Council – Request for Civil Grand Jury Investigation – San Mateo County Mosquito & Vector Control District

Dear Mr. MacMillan,

I am writing to you on behalf of the San Carlos City Council. At their public meeting held on February 13, 2012, the City Council unanimously voted to send a letter to the Civil Grand Jury requesting an investigation of recent events at the San Mateo County Mosquito and Vector Control District involving the alleged embezzlement of funds, management and hiring issues related to the alleged events and the response of district management. It also asked that copies of this letter be sent to the County Board of Supervisors and every City Council in the County so that they may consider a similar request for an investigation by the Civil Grand Jury.

The San Carlos City Council does not take this action lightly. In fact, it is the first time that the Council has asked the Civil Grand Jury to undertake an investigation. The Council believes that the Civil Grand Jury is the appropriate body to explore the issues in this matter. The Jury's ability to conduct a detailed review of a public agency in the County and to conduct interviews in confidence will help shed light and perhaps point the way to improved methods and practices to deliver Mosquito and Vector Control services to the residents and businesses in this County.

Contacts Received by City Council Members

In recent months, members of the City Council have become aware of issues at the Mosquito District through phone calls and discussions from district employees, their representatives and the public. The Council has also discussed the matter in open session as noted above.

We applaud the courage and efforts of Betsy Schneider, the San Carlos representative to the Mosquito Board in taking the alleged irregularities that she spotted as a Board Member to the management of the district and later to the County Counsel. This is the kind of civic stewardship that we expect from public officials, commissioners and board members. While it is sometimes difficult, the Council is gratified to see that Ms. Schenider's efforts are now leading to a much needed review of these matters. We believe that the Civil Grand Jury can play an important role in this process.

Issues to Study

While the City Council may not be aware of the full range and extent of the issues at the Mosquito District, a number of questions and concerns have been brought to our attention. These issues are certainly worth of the Civil Grand Jury's review. They include the following:

1. Financial Management

Even though the Mosquito District is a small Special District, it nevertheless handles a significant amount of taxpayer money. There should be a review of the agency's financial management procedures and practices to insure that they include separation of duties, appropriate budget and fiscal review and reporting. These are all basic requirements in any government agency and they should be present in this agency as well.

2. Hiring Practices

It appears that the district is not following standard hiring practices when reviewing candidates for jobs at the district. This has led to some serious allegations of wrongdoing at the district. District hiring practices should be examined to see why these issues occurred and how they can be addressed.

3. Audits & Finances

The Council is puzzled by reports that some of the Mosquito District's accounting and its annual audits are performed by the same accounting firm. If true, this practice misses the point of retaining an Independent Audit Firm to periodically review a Government Agency's finances as is done in the City and most City, County and Special Districts today.

4. Management Oversight

The Council has received comments that there is a need for more management oversight and control at the Mosquito District. There should be a close look at how the district is currently managed and whether there are ways to strengthen this area – either with the current management structure or an improved management function.

5. Internal Practices are Not Followed

The City Council has received comments and testimony that internal practices and procedures at the Mosquito District are not being followed. These individuals believe that if district procedures that already exist are followed, some of the issues that have been raised would not have occurred.

6. Contracting for Finance & Management Services

Another question that we would raise is to ask is it time for the district to contract with San Mateo County or another larger agency that has more resources and staff to handle the district's finances and management. This would allow the Mosquito District employees to focus on direct delivery of services to the public and businesses and have finance, management and back office functions provided in a different way.

7. Mosquito District Board Tenure & Expertise

The Council has also received comments that some members of the Mosquito District Board have served for many years. There have also been suggestions that if more board members had strong backgrounds in Management, Finance and Human Resources, some of the issues at the district may have been addressed earlier. With that in mind, the Council suggests that the Civil Grand Jury explore this area to see if more frequent rotation of board members and appointment of board members with strong management, finance and human resources background would be appropriate if the current Special District service model is retained.

8. County Consolidation

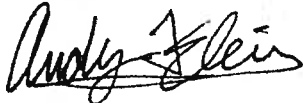
A related issue is whether it is desirable for all of the Mosquito District functions to be incorporated into the services provided by San Mateo County. The City Council is aware that the Board of Supervisors is exploring the role and need for some County functions and Special Districts during this year's budget cycle. The Civil Grand Jury may want to explore whether it is time for the work of this district to be consolidated with an appropriate division or department at the County.

Closing Comments

I appreciate your consideration of this request from the San Carlos City Council. I trust that the Civil Grand Jury will discuss and consider it closely as you develop the work plan for this year's reports. We recognize that the Civil Grand Jury has many areas that it can explore in the time between now and the Jury's tenure ending on June 30th. Even so, we believe that these issues demand immediate and serious attention by the Civil Grand Jury.

By copy of this letter, I am inviting the Board of Supervisors and the City Councils in cities around the County to join in our request for such a study. It is both very appropriate and it is a review that needs to be done – the sooner the better – to restore the public's confidence and faith in the work that all of us do as guardians of the public trust.

Sincerely Yours,



Andy Klein
Mayor

cc: San Carlos City Council
San Mateo County Board of Supervisors
Board Members, San Mateo County Mosquito & Vector Control District
Mayor & City Council Members, Cities of San Mateo County
City Manager
Assistant City Manager
City Attorney

From: Bob Gay [rgay@SMCMAD.ORG]
Sent: Thursday, December 08, 2011 1:21 PM
To: jdobbie@ci.atherton.ca.us; jdanielson@ci.atherton.ca.us; tdellasanta@ci.atherton.ca.us; CityCouncil@belmont.gov; cmanager@belmont.gov; cfeierbach@belmont.gov; bologoff@ci.brisbane.ca.us; cholstine@ci.brisbane.ca.us; wricks@ci.brisbane.ca.us; jdeal@burlingame.org; jnantell@burlingame.org; CityManager@dalcycity.org; cityclerk@dalcycity.org; cromero@cityofepa.org; mwarren@cityofepa.org; akiesel@fostercity.org; manager@fostercity.org; naomip@hmbcity.com; lsnideman@hmbcity.com; TKasten@hillsborough.net; MBernardo@HILLSBOROUGH.NET; Rojas, Glen; Roberts, Margaret S; _CCIN; dquigg@ci.millbrae.ca.us; mraines@ci.millbrae.ca.us; nihartm@ci.pacifica.ca.us; rhodess@ci.pacifica.ca.us; o'connellk@ci.pacifica.ca.us; tdriscoll@portolavalley.net; ahoward@portolavalley.net; aaguirre@redwoodcity.org; jira@redwoodcity.org; mail@redwoodcity.org; dlacroix@redwoodcity.org; jruane-web@sanbruno.ca.gov; cjackson-web1@sanbruno.ca.gov; cgroom@smcgov.org; aklein@cityofsancarlos.org; jmaltbie@cityofsancarlos.org; citymanager@cityofsanmateo.org; Council@ssf.net; barry.nagel@ssf.net; sgeorge@woodsidetown.org; council.members@woodsidetown.org; dhorsley@smcgov.org; RoseJG@smcgov.org; atissier@smcgov.org; dpine@smcgov.org; dburruto@smcgov.org; cmo_webmaster@co.sanmateo.ca.us; treasmaster@co.sanmateo.ca.us; 'Esther Garibay (egaribay@co.sanmateo.ca.us)'; Brandt Grotte (bgrotte@cityofsanmateo.org)
Cc: Aimee Armsby; portorgoltz@yahoo.com
Subject: San Mateo County Mosquito and Vector Control District - Press Release
Attachments: Internal Control Document for Cities on Fraud Case.docx

County Supervisors/City Managers and Mayors/County Treasurer,

The following press release was submitted to the media outlets on Monday, December 5, 2011:

San Mateo County MVCD is the victim of embezzlement.

The General Manager of the San Mateo County Mosquito and Vector Control District, Robert Gay, reports that the District has been the apparent victim of theft, fraud, forgery and embezzlement by two former District employees, who carried out the criminal acts during their employment.

District Manager Gay reported to the Board of Trustees that a forensic audit of District financial data has revealed a complex and sophisticated method of misuse and theft of District funds and property believed to total more than \$647,000. The vast majority of the loss occurred within the last fiscal year.

The scheme was uncovered when a member of the Board of Trustees raised concerns about certain reported expenditures within the District's pesticide account. When Mr. Gay's request for explanation resulted in unsatisfactory responses from the staff members responsible for District finances, Mr. Gay promptly arranged to have an outside CPA firm conduct an audit.

Immediately upon suspicion that wrongdoing may have occurred, Mr. Gay reported the matter to the San Mateo County District Attorney Office, which launched a criminal investigation. The District has been cooperating with District Attorney Investigators throughout the investigation. On completion of their investigation, the DA will file criminal charges.

One of the apparent perpetrators was terminated by the District, and another voluntarily resigned prior to the discovery of her involvement. Any other employees determined to have had knowledge of the wrongdoing and failed to report it, or knowingly benefitted from the wrongdoing, will also face discipline.

In consultation with recommendations of the forensic audit team, the District implemented additional fiscal safeguards, including policies and procedures to further bolster transparency and accountability for all financial transactions.

The District is actively pursuing recovery of the lost funds, including expenses incurred in the recovery of the assets, through available insurance coverage. The District is also planning to seek restitution from the perpetrators through civil suit and the anticipated criminal prosecution.

Public employees who engage in financial wrongdoing such as the acts perpetrated against San Mateo County MVCD are responsible for a monumental betrayal of public trust. The District will take all appropriate actions to ensure that the wrongdoers are held accountable to the fullest extent of the law, and to recover the funds stolen.

The media outlets were notified on Monday to direct their questions to Robert Gay, District Manager at 650-344-8592. Questions related to the criminal investigation or prosecution were to be directed to the District Attorney's Office at 650-363-4636.

Currently:

1. The District has been cooperating with the District Attorney Investigators and we anticipate criminal charges will be filed.
2. We believe the apparent perpetrators, both in the Finance Department acted in collusion. One has been terminated and the other resigned when an audit was scheduled. Any other employees found to have knowledge of the wrongdoing and failed to report will face discipline.
3. The District has recently hired two new employees in the Finance Department. Both went through extensive criminal and credit back-ground investigations by ADP Screening and Selection Services.
4. The District engaged Jeff Ira from C.G. Uhlenberg to provide a special team of auditors to perform a forensic audit for supporting the District Attorney Investigators criminal case.
5. The District also engaged Jeff Ira's auditors to perform a complete rework of the District financial records for Fiscal Year 2010-11 and provided financial staff until the new employees were hired.

6. The District has filed a claim under an insurance policy for loss due to theft by an employee and is seeking complete reimbursement for the loss.
7. The District Manager, along with the auditors and the newly hired Finance Director, have restructured the District's Internal Controls and have provided the District's Board of Trustees reports on new internal controls implemented. (attached document)

The District is shocked at being the victim of employees who have brazenly betrayed the public trust.

Robert B. Gay
District Manager
San Mateo County MVCD
1351 Rollins Road
Burlingame, CA 94010
650 344-8592
650 918-8640 cell



San Mateo County
Mosquito and Vector Control District
1351 Rollins Rd
Burlingame CA 94010
(650) 344-8592 Fax (650) 344-3843
www.smcmad.org

REGULAR MEETING OF THE BOARD OF TRUSTEES
November 9, 2011

MANAGER'S REPORT

The following information was provided to the Board of Trustees on internal control structure.

Administrative and Financial Internal Controls

- **AFLAC Insurance**
 - The District Manager, Finance Director, and Accounting Technician are reviewing and verify coding of the monthly AFLAC invoice prior to processing.
- **Blue Shield Medical Insurance**
 - The District Manager, Finance Director, and Accounting Technician are reviewing and verify coding of the monthly invoice prior to processing. The District is verifying all evidence of coverage is located within each employee's files if the employee has added a spouse after marriage, or added a Domestic Partner after establishing a domestic partnership or adding a child.
- **Delta Dental Insurance**
 - The District Manager, Finance Director, and Accounting Technician are reviewing and verify coding of the monthly invoice prior to processing. The District is verifying all evidence of coverage is within each employee's files if the employee has added a spouse after marriage, or added a Domestic Partner after establishing a domestic partnership or adding a child.
- **Vision Service Plan Insurance**
 - The District Manager, Finance Director, and Accounting Technician are reviewing and verify coding of the monthly invoice prior to processing. The District is verifying all evidence of coverage is within each employee's files if the employee has added a spouse after marriage, or added a Domestic Partner after establishing a domestic partnership or adding a child.

- **Long Term Insurance**
 - The District Manager, Finance Director, and Accounting Technician are reviewing and verify coding of the monthly invoice prior to processing.
- **SamCERA Retirement Association**
 - Finance Director will verify the salary and deductions were calculated correctly by the Accounting Technician on a monthly basis. District Manager then reviews and verifies coding of the monthly documents and signs all SamCERA reports.
- **Fixed Asset Program**
 - The Policy Committee is reviewing the District Policy # 6050, Disposal of Surplus Property. Disposal documents will be provided in the January Board pre-packet for approval and closure.
- **District Vehicle Master Keys**
 - District Manager will inspect the Master Key Box on a monthly basis.
- **District Security Safes**
 - District Manager will have the safes (2) rekeyed this month.
- **OCE Copier Lease Agreement**
 - The District Manager, Finance Director, and Accounting Technician are reviewing and verify coding of the monthly invoice prior to processing.
 - The District Manager and Finance Director will continue to press OCE for a new leasing contract for reducing the cost of the fax machine lease.
- **Maintenance Contracts**
 - All maintenance contracts will be reviewed on a quarterly or monthly basis depending on the contract and the District Manager will review the quality of work performed.
- **Payroll**
 - Payrolls' are prepared by the Accounting Technician and reviewed by the Finance Director, the summary documents are provided to the District Manager for review and following his signature the summary documents are processed through ADP Payroll Service. For comparison the District Manager is provided payroll information for each employee showing their salary information including; base pay, longevity pay and current deductions. The final internal control is the original payroll documents received from ADP to the District by currier are delivered directly to the District Manager who opens the confidential documents to verify payroll, prior to disposition to staff by the Accounting Technician or Finance Director.
- **Verizon Wireless Contract**
 - District Manager reviews the Verizon monthly invoice and verifies coding of the documents prior to processing. Finance Director was authorized as a Program Administrator. District Manager and Finance Director verify cell phone usage and hours authorized on a monthly basis.

- **Great West Deferred Compensation**
 - Deferred compensation documents are prepared by the Accounting Technician and reviewed and verified by the Finance Director. The prepared documents are then provided to the District Manager for review and verify coding of the documents. Deferred compensation documents are also verified to the payroll documents. District Manager is the Program Administrator.

- **District Checks**
 - The District Manager reviews all invoice coding. The Accounting Technician will prepare all checks. The Finance Director will review all checks for the invoicing and provides to the District Manager for review and signature. The District Manager will verify all checks and sign all checks. Twice a month the Finance Director will provide the signed checks to a Board Officer for review and their final signature.

- **Employee Leave Balances**
 - Accounting Technician, Finance Director, and District Manager are reviewing and verifying all leave balances on a monthly basis.

- **Family Medical Leave Program**
 - Accounting Technician, Finance Director and District Manager are reviewing and verifying all requests for FMLA.

- **Workers Compensation Program**
 - District Manager and Finance Director will review on a quarterly basis the District Workers Compensation Program. District Manager receives documentation on all workers compensation claims over \$75,000 on a monthly basis from AIMS of the VCJPA.

- **Management Meetings**
 - District Manager, meets with the Directors of Operations, Laboratory, and Finance on a weekly basis to review all on-going programs, review current issues, and provide general overview.

- **Human Resource Program**
 - Accounting Technician, Finance Director and District Manager are upgrading the HR program. District Manager, Finance Director, and Accounting Technician are attending upcoming Human Resource courses held in December and January.

- **ACH Transfers**
 - District Manager and Finance Director have determined there is no need for future wire transfers. District Manager is returning the Wire Token to the San Mateo County Treasurer's office.

- **IT Program**
 - District Manager reviews with the IT Coordinator and Finance Director on a quarterly basis the IT programs.

- District Manager, Finance Director, and IT Coordinator are reviewing a new phone system and a new Exterior Door Management System. We will be upgrading the server and website during the winter months.
- **Background Checks on New Employees**
 - District Manager is implementing a “new” background check program with ADP Screening and Selection Service Program. Currently, all newly hired employees will undergo an Identity Risk Review, Criminal Risk Review, Crimlink® Multi-jurisdictional Criminal History Database Review, and a DMV report. Financial staff will also undergo a Credit Risk Review. Additional items under consideration are Credential Risk Review, Immigration Risk Review, Drug Testing, and Fingerprinting.
- **Identity Theft Update**
 - The codes were received and were made available to the staff and trustees with the website and phone number to call to set up each program.
- **District Policies**
 - The Board of Trustees Policy Committee is reviewing all policies and making changes as needed.

March 28, 2012

Mr. Samuel Lerner
President, Board of Trustees
San Mateo County Mosquito & Vector Control District
1351 Rollins Road
Burlingame, CA 94010

Subject: City of Menlo Park Comments regarding the San Mateo County Mosquito & Vector Control District

Dear Mr. Lerner,

I am writing to you on behalf of the Menlo Park City Council. At the Council meeting of March 27th, 2012, the Council unanimously voted to send a letter to the Mosquito District Board as well as one to the San Mateo County Civil Grand Jury. Council also asked that copies of the letter to the Civil Grand Jury (attached) be sent to the County Board of Supervisors and every City Council in the County so that each City may consider a similar request for an investigation of the Mosquito District by the Civil Grand Jury.

In recent months, the Council has read a number of newspaper stories regarding the events which precipitated the allegations, as well as stories following the arrest of the alleged embezzlers. The Council is concerned about the allegations with respect both to the alleged outright embezzlement as well as the lack of budget oversight by the District Management and the Board. While conclusion cannot be reached without more information and evidence regarding the employee and Board actions, it does bring to the forefront the lack of accountability of the overall Board to any entity beyond the Board itself. While we believe the Board generally believed they were acting in good faith, there should be more accountability by the Board as well as more accounting systems and policies in place to provide assurances to the tax payers that funds are spent appropriately.

These actions by the City Council were triggered by recent events at the San Mateo County Mosquito and Vector Control District involving the alleged embezzlement of funds, management and hiring issues related to the alleged events, and the response of district management.

In a review of the February 7, 2012 minutes from the Board, it appears that the Board acted in closed session to place the District Manager on a Performance Improvement Plan with a month to month review by an outside consultant to implement and expedite the PIP and assist with a report to the Board. The Council is pleased to hear that the Mosquito Board is taking action in this area and looks forward to hearing about additional action steps that the Board will take in the future regarding these matters.

In hindsight, however, the financial issues bring to the forefront the lack of oversight of the Special District and the lack of accountability outside of the Board. From the District's website it appears that the meetings themselves are not broadcast or webcast, reducing the opportunity for community members to be knowledgeable regarding the District actions. While each City Council in the County appoints one member to the Board, there is no structured communication between the Board and elected officials or between the District Manager and appointed officials. As we face the issues brought about by the alleged embezzlement, including not only the loss of tax payers funds, but the loss of public trust, we recommend improved oversight of the District. We believe that either the Special District itself should be absorbed by a larger agency such as San Mateo County or a mandatory reporting mechanism must be put in place.

As I note in our letter to the Civil Grand Jury, it is both appropriate and important that these matters be reviewed as soon as possible to restore the public's confidence and faith in the work that all of us do as guardians of the public trust.

The City will continue to review progress on these issues and look forward to their resolution.

Sincerely,

Kirsten Keith on behalf of the entire Menlo Park City Council
Mayor

cc: Menlo Park City Council
San Mateo County Board of Supervisors
Board Members, San Mateo County Mosquito & Vector Control District
Mayor & City Council Members, Cities of San Mateo County
City Manager
Assistant City Manager
City Attorney

March 28, 2012

Mr. Bruce MacMillan
Foreman
San Mateo County Civil Grand Jury
400 County Center
Redwood City, CA 94063-1655

Subject: City of Menlo Park Request for Civil Grand Jury Investigation of San Mateo County Mosquito & Vector Control District

Dear Mr. MacMillan,

I am writing to you on behalf of the Menlo Park City Council. At the Council meeting of March 27th, 2012, the Council unanimously voted to send a letter to the San Mateo County Civil Grand Jury as well as to the Mosquito District Board. Council also asked that copies of the letter to the Civil Grand Jury be sent to the County Board of Supervisors and every City Council in the County so that each City may consider a similar request for an investigation of the Mosquito District by the Civil Grand Jury.

In recent months, the Council has read a number of newspaper stories regarding the events which precipitated the allegations, as well as stories following the arrest of the alleged embezzlers. The Council is concerned about the allegations with respect both to the alleged outright embezzlement, as well as the lack of budget oversight by the District Management and the Board. While conclusions cannot be reached without more information and evidence regarding the employee and Board actions, it does bring to the forefront the lack of accountability of the overall Board to any entity beyond the Board itself. While we believe the Board generally believed they were acting in good faith, there should be more accountability by the Board as well as more accounting systems and policies in place to provide assurances to the tax payers that funds are spent appropriately.

The Menlo Park City Council does not take these actions lightly. In fact, it is the first time that the Council has asked the Civil Grand Jury to undertake an investigation. The Council believes that the Civil Grand Jury is the appropriate body to explore the issues in this matter. The Jury's ability to conduct a detailed review of a public agency in the County and to conduct interviews in confidence

will help shed light and perhaps point the way to improved methods and practices to deliver Mosquito and Vector Control services to the residents and businesses in this County. This request by the City Council is triggered by recent events at the District involving the alleged embezzlement of funds, management and hiring issues related to the alleged events, and the response of District management.

In hindsight, however, the financial issues bring to the forefront the lack of oversight of the Special District and the lack of accountability outside of the District Board. While each City Council in the County appoints one member to the Board, there is no structured communication required between the Board and elected officials or between the District Manager and appointed officials. As we as elected officials face the issues brought about by the alleged embezzlement, including not only the loss of tax payer funds, but the loss of public trust, we see a need for improved oversight of the District. We believe that either the Special District itself should be absorbed by a larger agency such as San Mateo County or a mandatory reporting mechanism must be put in place to restore public confidence.

In a review of the February 7, 2012 minutes from the Board, it appears that the Board acted in closed session to place the District Manager on a Performance Improvement Plan (PIP) with a month to month review by an outside consultant to implement and expedite the PIP and assist with a report to the Board. The Council is pleased to hear that the District is taking action in this area, but is concerned that the credibility of the current management requires more extreme action.

It is both critical that these matters be reviewed as soon as possible to restore the public's confidence and faith in the work that all of us do as guardians of the public trust. The City will continue to review progress on these issues and look forward to their resolution.

Sincerely,

Kirsten Keith, Mayor
On behalf of the entire Menlo Park City Council

cc: Menlo Park City Council
San Mateo County Board of Supervisors
Board Members, San Mateo County Mosquito & Vector Control District
Mayor & City Council Members, Cities of San Mateo County
City Manager
Assistant City Manager
City Attorney



San Mateo County
Mosquito and Vector Control District
 1351 Rollins Rd
 Burlingame CA 94010
 (650) 344-8592 Fax (650) 344-3843
 www.smcmad.org

March 19, 2012

Via U. S. Mail

The Honorable Kirsten Keith, Mayor
 City of Menlo Park
 701 Laurel St
 Menlo Park, CA 94025

RECEIVED

MAR 22 2012

**City Clerk's Office
 City of Menlo Park**

Dear City Clerk Margaret Roberts:

This letter has been prepared for all entities with statutory authority to appoint members of the San Mateo County Mosquito and Vector Control District (SMCMVCD, or "the District"). Because of the pendency of the criminal investigation and prosecution of Joanne Seeney Dearman and Vika Sinipata, the SMCMVCD has been extremely cautious about the information it has released publicly, so as not to impede or compromise in any way those criminal proceedings. However, the District values the need for transparency in the conduct of public business, and recognizes the countervailing importance of providing additional detail to the appointing authorities and the public at large concerning the embezzlement of District funds.

In furtherance of that objective, this letter is intended to address several issues. First, it will provide a brief overview of the District, its mission and relevant history, and the comprehensive regulatory framework governing the District. Second, it contains a summary of the events leading up to and following the discovery of alleged criminal wrongdoing by two former District employees. Finally, it details the various steps the District and others have taken to prosecute the offenders, recoup the losses, and ensure the increased integrity of the District's internal controls.

A. Introduction and General Background Information

The mission of the San Mateo Mosquito Abatement and Vector Control District is: "To safeguard the health and comfort of the citizens of this district through a planned program to monitor and reduce mosquitoes and other vectors."

The mosquito control program in San Mateo County is one of the oldest in the United States, initiated in 1904 by the Burlingame Improvement Club, which enlisted the

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help of entomologists from the University of California to develop a plan to fight the city's mosquito infestations. However, early attempts were not comprehensive or well-funded, and by 1912, mosquitoes had become so abundant that they contributed to dramatic decreases in property values.

In 1915, the California legislature passed the Mosquito Abatement Act, giving local governments the power to form and fund special districts to control mosquitoes and protect citizens from mosquito-borne diseases. One of the first districts formed under the Act was a joint effort of three San Mateo County cities. In 1953, that early district merged with another district in southern San Mateo County to form the San Mateo County Mosquito Abatement District. Over recent decades, the District has expanded its service area to include all cities and unincorporated areas of San Mateo County. The Mosquito Abatement and Vector Control District Law Act was passed by the State legislature in 2002 in order "to create and continue a broad statutory authority for a class of special districts with the power to conduct effective programs for the surveillance, prevention, abatement, and control of mosquitoes and other vectors."

Robert Gay has been the District Manager since 1999, and previously served the District in the position of Vector Ecologist. His background is as a scientist, coming to the District from a distinguished military career, working as a Medical Entomologist and Preventive Medicine Officer with the U.S. Navy across the globe. During his tenure as District Manager, Mr. Gay has directed and overseen the transformation of the District from its humble operations when he joined the agency to its current headquarters in Burlingame with a state-of-the-art laboratory facility relied on statewide for certain types of animal and insect testing. SMCMVCD is well known as a leader in innovation and effectiveness within the field. Mr. Gay serves on the Board of Directors of the Mosquito and Vector Control Association of California (MVCAC), as past President of the statewide organization.

The District is highly regulated under state laws governing special districts including mosquito and vector control districts and federal laws with the use of bio-rational control agents to suppress mosquitoes and other vectors transmitting diseases like West Nile virus. State law defines a special district as "any agency of the State for local performance of governmental or proprietary functions within limited boundaries" (Government Code 1627[d]). A special district is a separate local governmental agency formed to provide local services, and as such is subject to Government Code regulations concerning budgeting, purchasing, accounting, sale of surplus property, annual audits, and other governmental functions.

SMCMVCD is an independent special district, a type of local government that delivers specific services to citizens within its boundaries under the governance of its own Board of Trustees. The Board of Trustees for the District consists of one resident from each city, appointed by their respective City Council, and one representative appointed by the County Board of Supervisors. Trustees serve for a term of two or four years and are highly dedicated to this community service.

B. The Embezzlement

The embezzlement allegations against former employees of the District included a complex scheme to defraud the District through a variety of means, and included elaborate efforts to cover up the embezzlement using falsified records presented to the District Manager and Board of Trustees. The conspiracy between the alleged perpetrators was so elaborate and well concealed that it also was not detected in the District's annual audit processes.

SMCMVCD operates with a very small administrative staff. The Finance Department consists of two positions, a Finance Director, the position previously held by Ms. Dearman, and an Accounting Supervisor, the position previously held by Ms. Sinipata. In considering the circumstances of the embezzlement, and the level of deception apparently engaged in by the perpetrators, it should be noted that this was a conspiracy in which the entire Finance Department was involved. That fact contributed to the perpetration of the fraud in the first instance, and also to ability of the perpetrators to cover-up the fraud, which thereby allowed it to go on longer without detection.

C. Discovery of Apparent Wrongdoing, and Response

A few District employees raised specific concerns or complaints to the District Manager in late 2010 and early 2011 asking for more detailed reports and documentation from the Finance Director concerning expenditures. Subsequently, similar concerns were voiced by a Board member in connection with a specific District account. These concerns were not ignored. The District Manager responded to these concerns, brought them to Finance Director, and was given explanations for any apparent discrepancies, often involving delays the Finance Director blamed on outside entities, such as vendors, or on the accounting system employed by the County Controller, where the District's accounts were held. These explanations are now known to be false. Documentation was provided to the District Manager and to the Board of Trustees purporting to show reason for any discrepancies. We now know that documentation was falsified. The excuses and delays created by Ms. Dearman and Ms. Sinipata, while they appeared credible and plausible at the time have now been shown to be fabricated.

For example, unauthorized increases in payroll were not readily evident in the documents provided to the District Manager and to the Board of Trustees, as they involved complex (and ultimately inaccurate) calculations of longevity increases. During the relevant time period, the District used an outside vendor for payroll services, and the Finance Director and Accounting Supervisor were the only employees with access to the vendor's online system. As they were the two members of the Finance Department during this time period, the fact that access was limited to these individuals is not, in and of itself, unusual. However, it now appears clear that the online system was used as part of the means of perpetrating fraud against the District. There are numerous instances of what appears to be collusion between the two criminal defendants to both defraud the

District and to create false documentation, accounts and transactions to cover up the fraud.

When a District account appeared to be substantially over budget, the District Manager, and subsequently the Board, asked the Finance Director for an explanation of the overage. The Finance Director promised to investigate further, but shortly thereafter, suddenly went on Family Medical Leave Act (FMLA) leave, claiming the need to care for her seriously ill mother. The District Manager then directed Ms. Sinipata to investigate the concerns and determine the cause of the overage. Unbeknownst to anyone in the District, it is now clear to us that Ms. Sinipata was a co-conspirator, and only furthered the obfuscation and delay, while pretending to investigate the concerns. Meanwhile, certain other events that should have raised "red flags" for District employees were not reported to the District Manager in a timely fashion. In particular, when certain employees were repeatedly asked by the Finance Director to cash District checks written to them for substantial amounts, allegedly for "petty cash," the employees did not report the incidents to the District Manager until well after they occurred, and only as the alleged fraud was being uncovered.

A member of the Board of Trustees then brought the concerns about the pesticide account to the County Counsel's office, at which point an outside forensic audit of the account was immediately ordered by the District Manager, and the District Attorney's office was notified. When the initial audit identified concerns, it was expanded to include all aspects of District finances. It was only through a lengthy and very detailed forensic investigation, which took nearly five months to complete, that the full extent and nature of the apparent fraud and embezzlement was discovered.

Neither the forensic audit nor the criminal investigation has uncovered any evidence of, or given rise to any suggestion that the District Manager had any knowledge of the alleged fraud and embezzlement at any time prior to its discovery through the audit process. To the contrary, the Finance Director and Accounting Supervisor had the trust and confidence of the District Manager and the Board even while these employees were apparently engaging in their criminal scheme.

D. Insurance coverage, status of claims

As the District has previously indicated, it has insurance coverage that we believe covers the damages caused by these illegal and wrongful acts. Staff and counsel have been working with the insurer to move the claims process along. Following its initial review of the claims and the underlying documentation submitted, the insurer noted that the scheme involved such a high level of complexity and deceit that it needed to hire an outside forensic expert to assist in understanding the methods of embezzlement and processing the claims, therefore requiring more time to process.

The District will actively and vigorously pursue the insurance claims to ensure recovery of every dollar available within its coverage.

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E. Confidentiality Issues

From the first suggestion that criminal wrongdoing was involved, the County Counsel notified the District Attorney's office and an investigation was initiated by the County Sheriff's Investigative Unit. Because of the very sensitive nature of the investigation, information concerning the matter initially was shared only with SMCMVCD Board officers. At this stage, one of the alleged perpetrators was already in custody for other crimes, but her alleged co-conspirator, who appears to have no prior criminal history, was unaware that the scheme had been discovered. It was crucial that she not be tipped off prior to the completion of the investigation. Accordingly, the utmost confidentiality was maintained, and the District refrained from making any public announcement until the District Attorney was prepared to move forward with charges against the suspected embezzlers.

F. Board and Management Action

As soon as it could be done without jeopardizing the criminal investigation, the full Board was fully briefed on the matter. The County Counsel's office, with the assistance of a highly trained outside investigator, immediately initiated two personnel investigations. The first focused on the actions and inactions of a few staff members that, apparently inadvertently, facilitated aspects of the alleged embezzlement by Ms. Dearman and Ms. Sinipata. As required by law and District policy, the results of this investigation were addressed as internal personnel matters, in which any involved employees are entitled to confidentiality.

The second investigation concerned whether and/or to what extent the District Manager actions or inactions during the relevant time period contributed to the circumstances under which the embezzlement scheme was perpetrated. This was triggered by the Board's role as the entity responsible for hiring and evaluating the District Manager. The Board's overarching intention was to assess the District Manager's performance in the context of the events discovered and determine what, if any, action to take as a result of its assessment.

Once the investigation was completed, the matter was agendized for closed session before the Board. The Board conducted a lengthy and very thoughtful consideration of the matter. Although the closed session itself was and remains confidential under the Brown Act, the Board, with a waiver from the District Manager, took the unusual step of reporting out the fact that it had unanimously voted for the implementation of a Performance Improvement Plan (PIP) for the District Manager. That process is ongoing, and the Board will receive monthly closed session reports concerning the District Manager's performance under the PIP.

Simultaneous with the personnel investigations, the District conducted a thorough and very rigorous audit of its policies and procedures in consultation with counsel and

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with the forensic auditors. That process has resulted in an extensive review of all District policies and procedures, and where appropriate, revisions. Examples revisions implemented are included below.

G. Remedial Measures

The Board and District Manager also have engaged in an extensive review and revision of District and Board policies and procedures to address and improve internal controls. Because of the elaborate and extensive falsification of documents by the alleged perpetrators, the forensic auditors rebuilt the District's accounting records and provided extensive consultation on fiscal controls.

The information provided below is not intended to be comprehensive, but describes numerous examples of changes within the District designed to protect against the type of criminal acts perpetrated in this matter, as well as to ensure a framework for applying current best practices in the area of fiscal and personnel controls generally.

The District's new Finance Director and Accounting Technician have been hired using rigorous reference and background checks. They work with the District Manager to continuously review internal controls as appropriate.

- **Payroll:**

The processing of payroll has been modified in several respects as a result of the forensic audit findings. Now, payroll is prepared by the Accounting Technician and reviewed by the Finance Director, the summary documents are provided to the District Manager for review and following his signature the summary documents are processed through the payroll services vendor. The District Manager compares each payroll report to a database of payroll information for each employee showing salary information including base pay, longevity pay and current deductions. The original payroll documents received from the payroll services vendor to the District are delivered directly to the District Manager, who opens the confidential documents to verify payroll prior to distribution to staff by the Accounting Technician or Finance Director.

- **Employee Medical, Vision and Dental Insurance**

The District Manager, Finance Director, and Accounting Technician are all reviewing and verify coding of the monthly invoice prior to processing. The District is verifying all evidence of coverage and ensuring proper documentation in connection with qualifying events, a process previously handled within the Finance Department.

- **Long Term Disability Insurance**

The District Manager, Finance Director, and Accounting Technician review and verify coding of the monthly invoice from the insurer prior to processing.

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- **SamCERA Participation**

The Finance Director verifies that salary and deductions are calculated correctly by the Accounting Technician on a monthly basis. The District Manager then reviews and verifies coding of the monthly documents and signs all SamCERA reports. Three separate reviews are utilized on each set of SamCERA documents. Again, this previously was a function handled entirely within the Finance Department, which then prepared a summary for the District Manager and Board on a periodic basis.
- **Fixed Asset Program**

The Board's Policy Committee and counsel have reviewed the District Policy on Disposal of Surplus Property, submitted for Board Approval. The revised policy incorporates additional controls on the valuation and disposal of fixed assets, such as vehicles, to guard against theft and malfeasance.
- **Maintenance Contracts**

All maintenance contracts are reviewed by the District Manager and Finance Director on a quarterly or monthly basis depending on the contract, and the District Manager will conduct a qualitative review of work performed.
- **Wireless Phone Contract**

District Manager reviews the monthly invoice and verifies coding of the document prior to processing. The Finance Director and District Manager verify cell phone usage and hours authorized on a monthly basis.
- **Deferred Compensation**

Deferred compensation documents are prepared by the Accounting Technician and reviewed by the Finance Director. The prepared documents are then provided to the District Manager for review and to verify coding of the documents. Deferred compensation documents are also crosschecked against payroll to ensure accuracy. The District Manager is the Program Administrator, whereas it was previously the Finance Director.
- **District Check Issuance**

The District Manager reviews all invoice coding. The Accounting Technician prepares all checks, and the Finance Director reviews them against invoicing before they go to the District Manager for review and signature. The District Manager will verify all checks and sign all checks. Twice a month the Finance Director will provide the signed checks to a Board Officer for review and their final signature.
- **Credit Card Program**

Under the revised procedures for District credit cards, the District Manager is the Program Administrator and the Finance Director is the backup Program

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Administrator. Credit card statements for District cardholders are reviewed and signed by each cardholder and their respective managers on a monthly basis. All statements are submitted to the Accounting Technician with proper support (original receipts) prior to being processed. The Finance Director and District Manager review all transactions for questionable activity and approve statements prior to payment. A copy of the original District credit card statement as well as a report of all credit card activity is provided to the Board on a monthly basis.

- **Employee Leave Balances**
Accounting Technician, Finance Director, and District Manager review and verify all leave balances on a monthly basis.
- **Family Medical Leave Program**
Accounting Technician, Finance Director and District Manager review and verify all requests for FMLA. The District Policy Committee will be updating this policy to address documentation of the basis for leave requests.
- **Workers Compensation Program**
The District Manager and Finance Director review on a quarterly basis the District Workers Compensation Program. The District Manager receives from the risk management authority documentation on all workers compensation claims over \$75,000 on a monthly basis.
- **Management Meetings**
The District Manager meets with the Directors of Operations, Laboratory, and Finance on a weekly basis to review all ongoing programs, current issues, and provide general overview of District activities.
- **Access to Bank Accounts**
The District Manager is the Program Administrator for the account, and no changes can be made to the account without the District Manager's approval. The Finance Director and Accounting Technician have "read only" access for the purposes of reconciling the bank account to the District's books. The Finance Director provides the District Manager and Board a reconciliation of the bank account on a monthly basis.
- **ACH/Wire Transfers**
After careful consideration of the matter, the District Manager, in consultation with the Finance Director, eliminated all use of ACH/wire transfers.
- **Background Checks on New Employees**
The District has contracted with an outside vendor for a Screening and Selection Service Program for all conditional hires. These individuals will undergo an Identity Risk Review, Criminal Risk Review, Crimlink® Multi-

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jurisdictional Criminal History Database Review, and a DMV report. Financial staff will also undergo a Credit Risk Review. The Board Policy Committee is engaged in the process of updating the policy manual on Employee Hiring Practices and Promotions. The District is implementing criminal background checks on all conditionally hired employees, as well as drug testing on all conditionally hired employees who drive a district vehicle or operate District machinery.

As you can see, the District has engaged in extensive and comprehensive efforts to improve its internal controls. Based on consultation with other similar public agencies, as well as experts in fiscal management, it is clear that the systems currently in place constitute more rigorous protections than many public agencies, and the District will continue to evaluate and improve its systems going forward to ensure continued best practices.

H. Conclusion

On behalf of the SMCMVCD Board of Trustees, I'd like to express the full and very serious commitment of the agency to its mission of service to the people of San Mateo County. The betrayal of public trust that has been perpetrated against SMCMVCD has been felt on a personal level by the Board and District Manager, as well as by each and every honest and hardworking employee of this District. I assure you that each and every citizen and public agency relying on the services of the District have the complete and sincere commitment of the Board in earning and maintaining the trust of its constituents each and every day.

Very truly yours,

BOARD OF TRUSTEES
SAN MATEO COUNTY MOSQUITO AND
VECTOR CONTROL DISTRICT



Samuel Lerner, DVM, Board President



ADMINISTRATIVE SERVICES DEPARTMENT

Council Meeting Date: March 27, 2012
Staff Report #: 12-055

Agenda Item #: D-5

CONSENT CALENDAR: Adopt a Resolution Increasing the City Manager's Contract Approval up to \$100,000 for Contract City Attorney Services for Review of the El Camino Real/Downtown Specific Plan and Appropriate \$50,000 from the General Fund

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution increasing the City Manager's contract approval authority up to \$100,000 for representation of the City with respect to the review of the El Camino Real/Downtown Specific Plan and appropriate \$50,000 from the General Fund.

BACKGROUND

Menlo Park is developing a long-term plan for the El Camino Real and Downtown areas. The completed Specific Plan will be a comprehensive, action-oriented set of rules, containing elements such as plans for open space and other public improvements, detailed land use regulations, design guidelines, and implementation measures. The Specific Plan will set up the framework for public and private improvements, although the Specific Plan itself will not undertake or approve any individual project; such projects will need to go through their own approval processes in the future.

The City Council concluded its review on October 4, 2011 with direction for substantive improvements to the Draft Specific Plan, including:

- Upgrading bicycle routes (shared auto-bike) to dedicated bicycle lanes wherever feasible;
- Reducing the maximum "façade height" (the height of buildings at their visible edge) in the Station Area and El Camino Real South-East zoning districts;
- Limiting the maximum overall height for buildings in the Station Area West zoning district;
- Requiring that potential downtown improvements (Santa Cruz Avenue sidewalk extensions and Chestnut paseo and market place) be implemented in a phased approach, with temporary installations used to evaluate whether the improvements should be permanent, and ensuring that they do not negatively impact existing businesses or the Farmer's Market;

- Adding Parking Plaza 2 to the list of potential garage locations;
- Reducing the maximum height of possible future downtown parking garages; and
- Eliminating the potential use of downtown Parking Plazas 2, 4, and 5 for mixed use buildings, helping preserve more surface parking.

Staff and the consultants are currently working to prepare the Final Specific Plan and Final Environmental Impact Report (EIR).

ANALYSIS

The City Council's direction required new analyses and studies on, and significant revisions to, topics including: street sections, building height and bulk restrictions, land use, development concepts, development intensity, and circulation improvements. In addition, the earlier Draft EIR review period generated a number of comments regarding the required environmental review of the Draft Specific Plan, which likewise far exceeded the amount of work and number of comments anticipated. Such comments, in conjunction with elements of the City Council's direction on the Draft Specific Plan which have the potential to affect the environmental review, require extensive work by staff and the consultants, including the Contract City Attorney.

Due to a conflict of interest with the City Attorney (who leases property within the Plan area), the City has contracted with a Contract City Attorney to provide legal services for the project. The Contract City Attorney's review of the Draft EIR was conducted through a contract under the City Manager's discretion for an amount not to exceed \$50,000. Staff had expected that the Contract City Attorney's involvement through the completion of the project would be able to be covered under the existing contract, but given the extensive comments and updates requested by the City Council substantial additional assistance will be needed. The Contract City Attorney is nearing the existing limit of the current agreement, with substantial work still to be done.

The scope of the Contract City Attorney's work would include review of the Final Environmental Impact Report to ensure legal adequacy, drafting responses to comment letters on the Draft EIR as requested, attendance at public meetings regarding the Specific Plan as requested by the City, and drafting of required findings for certification of the EIR and adoption of the Specific Plan. General advice and guidance on legal issues regarding the Specific Plan adoption process, including written memos as appropriate and legal assistance with review, revision, and finalization of the Specific Plan document, including associated General Plan and Zoning Ordinance amendments, would be provided.

The City Manager's contract award and purchasing authority is currently \$50,000, but staff is requesting Council authority for flexibility in order to avoid any delay in the timely completion of the Specific Plan. Council is being asked to provide administrative authority to the City Manager of up to \$100,000 to complete the scope of work for the Contract City Attorney. This approval will enable staff to stay on schedule and avoid delays caused by returning to City Council for contract amendments. An additional

budget appropriation of \$50,000 is being requested. The use of a contract City Attorney has turned out to be beneficial in creating greater legal review capacity and keeping other high priority projects on track given the magnitude of complex legal issues the City Attorney is involved in, including negotiating the Development Agreement with Facebook.

IMPACT ON CITY RESOURCES

The Specific Plan has required staff resources dedicated to the project, as well as initial appropriations of \$830,550 from the General Fund Reserve for consultant services, \$78,400 for transportation and traffic analysis contingency, and \$25,000 for related City costs. As the project has proceeded, the City has approved supplements as follows for a total of \$1,216,390:

- Additional facilitators at Community Workshop #2 - \$2,280
- Consultant preparation/attendance at additional Planning Commission and City Council meetings - \$10,000
- Water Supply Assessment (WSA) - \$27,010
- Special Districts Financial Impact Analysis - \$16,170
- General Fund Financial Impact Analysis Peer Review - \$1,000
- Additional Consultant Services - \$225,980

Planning fee changes approved by the City Council on November 25, 2008 include overhead allocations for General Plan and Zoning Ordinance Amendments, which could be applied to this project. In addition, staff will be bringing forward to the City Council with the Final Specific Plan and Final EIR a method for consideration of a fee on future development that makes use of the Specific Plan to help recover the costs of the preparation of the Plan.

The Vision Plan (Phase I) required both staff resources dedicated to the project as well as a General Fund Reserve appropriation of \$176,500 for consultant services and \$50,000 related City costs (initial outreach, speaker series, printing and mailing of the project newsletters, meeting documents and refreshments, and contingencies).

POLICY ISSUES

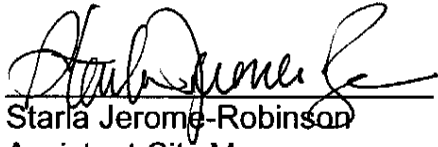
Adoption of the El Camino Real/Downtown Specific Plan will result in policy clarifications or changes related to land use and transportation issues.

This recommendation to create a one-time exception for authorization by the City Manager for this one contract does not create a precedent or modify the overarching authorization policy limiting administrative authority to \$50,000.

ENVIRONMENTAL REVIEW

The Vision Plan (Phase I) was a planning study and as such was not a project requiring

environmental review under the California Environmental Quality Act (CEQA). The Specific Plan (Phase II) includes the preparation of a program-level Environmental Impact Report (EIR). The comment period for the Draft EIR closed on June 20, 2011 and responses to the comments will represent the Final EIR, which will be reviewed publicly at future Planning Commission and City Council meetings. The project is exempt under class 1 of the current State of California Environmental Quality Act Guidelines.



Starla Jerome-Robinson
Assistant City Manager

PUBLIC NOTICE: Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

ATTACHMENT:

Attachment A: Resolution
Attachment B: Letter of intent

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY
AGREEMENT FOR ADDITIONAL CONTRACT CITY ATTORNEY
SERVICES IN AN AMOUNT NOT TO EXCEED \$100,000**

WHEREAS, a conflict of interest exists with the City Attorney (who leases property within the Plan area), the City has contracted with a Contract City Attorney to provide legal services for the El Camino Real/Downtown Specific Plan; and

WHEREAS, staff expected the Contract City Attorney's involvement through the completion of the project to be covered under the existing contract, but given the extensive comments and updates requested by the City Council substantial additional assistance will be needed; and

WHEREAS, such services would normally be covered within the scope of the City Attorney's budget, however the scope and breadth of the needed work exceeds the limits of the existing budget; and

WHEREAS, the Contract City Attorney is nearing the existing limit of the current agreement, with substantial work still to be done.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Menlo Park hereby authorize the City Manager to execute an agreement for additional Contract City Attorney services in an amount not to exceed \$100,000.

I, Margaret S. Roberts, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing Resolution was duly and regularly passed and adopted at a meeting by said Council on the twenty-seventh day of March, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this twenty-seventh day of March, 2012.

Margaret S. Roberts, MMC
City Clerk

March 6, 2012

Alex McIntyre, City Manager
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

Re: Legal Services - El Camino Real/Downtown Specific Plan

Dear Alex:

Goldfarb & Lipman, LLP ("Goldfarb & Lipman") would be pleased to continue our representation of the City of Menlo Park (the "City") with respect to the review of the El Camino Real/Downtown Specific Plan. The scope of work would include review of the Final Environmental Impact Report to ensure legal adequacy, drafting responses to comment letters on the Draft EIR as requested, attendance at public meetings regarding the Specific Plan as requested by the City, and drafting of required findings for certification of the EIR and adoption of the Specific Plan. We would also provide general advice and guidance on legal issues regarding the Specific Plan adoption process, including written memos as appropriate, and legal assistance with review, revision, and finalization of the Specific Plan document, including associated General Plan and Zoning Ordinance amendments, as requested. We would perform the work at the direction of the Community Development Director.

When signed by you or other authorized agent on behalf of the City, this letter will constitute the written fee agreement between the City of Menlo Park and Goldfarb & Lipman with respect to these services.

I would be primarily responsible for the work requested, with assistance from associates and partners if required. My time is currently billed at \$240/hour. Our costs will not exceed \$50,000 unless we receive express authorization from the City to exceed that amount. We will notify the City if the total of our fees and costs equals 80 percent of the amount authorized.

Our billing policies and our hourly rates are set forth in a statement enclosed with this letter. We will bill costs advanced on your behalf (such as messenger and express delivery charges) in addition to our fees. We will bill you for fees and costs on a monthly basis as they are incurred.

If you have any questions about this proposal, please contact me. If the arrangement described in this letter is satisfactory, please sign each copy of this engagement letter in the space provided below. Please return one to me and keep the other for your records.

Alex McIntyre
March 6, 2012
Page 2

We appreciate the opportunity to assist you in this matter.

Sincerely,

Barbara E. Kautz

ACCEPTED AND AGREED:

CITY OF MENLO PARK

By: _____
Alex McIntyre, City Manager

GOLDFARB & LIPMAN LLP
BILLING POLICIES AND PROCEDURES

Experience has shown that the attorney-client relationship works best when there is a mutual understanding about fees and payment terms. Accordingly, this letter is intended to briefly explain our billing policies and procedures. We encourage you to discuss with us any questions you may have concerning these policies and procedures.

To determine the value of our services, we ask each of our lawyers and legal assistants to maintain time records for each client and matter. The time records are reviewed monthly by the responsible billing attorney. Our present billing rates for services rendered for partners, associates, and for paralegals is attached. Our hourly rates are adjusted from time-to-time (generally once a year) and may change during the course of our engagement.

Bills are due within thirty days of receipt. Clients whose statements are not paid within 30 days of the statement date will be assessed a late charge on the unpaid balance at the rate of one-and-a-half percent per month.

In addition to legal fees, Goldfarb & Lipman will charge for reimbursement (at cost, with no mark-up) of expenses incurred on behalf of clients such as filing fees, document search fees, on-line legal research, or express delivery charges when such delivery is requested by the client.

The firm will not charge for long distance telephone, facsimile or e-mail transmissions, or routine photocopies. Extensive photocopies for client convenience or replacement of client files will be charged at ten cents per page.

We carry professional liability insurance above the limits required by law.

In closing, let us assure you that it has always been and will continue to be our goal to provide legal services to you on the most cost-efficient basis possible. If you have any questions or comments regarding our billing policy, please feel free to contact Barbara Kautz.

ATTORNEYS AND RATE SCHEDULE

Partners	\$240-250
Associates	\$165-235
Senior Law Clerks	\$135
Law Clerks	\$125
Project Coordinators	\$125



CITY COUNCIL SPECIAL MEETING **DRAFT** MINUTES

Tuesday, March 6, 2012
3:30 p.m.
701 Laurel Street, Menlo Park, CA 94025
City Council Chambers

STUDY SESSION

Mayor Keith called the Study Session to order at 3:35 p.m. Council Member Fergusson arrived at 3:38 p.m.

Mayor Keith led the pledge of allegiance.

SS1. Council review and possible direction regarding the Business Development Division Business Plan, the Business Development Program Budget, and the Council Business Development Subcommittee ([Staff Report #12-035](#))

Staff presentation by Justin Murphy, Community Development Manager ([Attachment](#))

Staff responded to Council questions.

The following members of the public spoke regarding the item:

- Ray Mueller urged Council to consider the types of businesses it wants to attract to Menlo Park and specifically to look at bioscience companies, and to support the U.S. Patent and Trademark Office coming to Silicon Valley.
- Jim Bigelow asked Council to direct staff to seek funding for regional transportation projects that will support local economic development efforts.
- Fran Dehn encouraged Council to seek strategic partnerships with outside agencies and specifically the Chamber of Commerce to achieve business development goals.

Council discussed the following:

Keith – (1) Engage with San Mateo County Economic Development Association (SAMCEDA) (2) Develop a list, similar to the City of San Carlos, identifying the types of businesses Menlo Park wants to attract (3) Update on the timeframes for completing the ECR/Downtown Specific Plan and the Housing Element (4) Hold a City-sponsored event reaching out to downtown property owners with current, long-term vacancies (5) Council to reach out to top 25 sales tax generators (6) Prepare a letter in support of the U.S. Patent and Trademark Office coming to Silicon Valley (7) Jobs-to-Housing ratio

Cline – (1) Help small businesses grow and stay in Menlo Park, specifically tech and software companies and those with most potential for growth (2) Focus on recruitment and retention through a more formal strategy involving outreach by the Mayor, a unified message, tracking and follow-up.

Ohtaki – (1) Concentrate on downtown vacancies, consider short term leases, engage and collaborate with regional and state organizations (2) Focus on and engage top sales tax generators to ensure they stay in Menlo Park (3) Start up an incubator system to help small businesses grow in hopes that they will expand into the industrial/business districts of Menlo Park and not elsewhere (4) Look into California Fresh Works Fund and the possibility of attracting a grocery to the Belle Haven area (5) Streamline the permit process

Cohen – (1) The need for a synergistic organization working together to address business development issues (2) Seek available grant money and staff support to do this (3) More outreach to realty, venture capitalist and personnel firms; he would like to do this (4) Hold an event with the Chamber of Commerce and City Commissions to discuss mutual interests and services (5) Have the Business Development Manager act as the liaison to the Chamber of Commerce in order to avoid Brown Act violations

Fergusson – (1) Staffing levels and status of employees currently handling business development activities (2) Seek more transportation grants (3) Support U.S. Patent and Trademark Office coming to Silicon Valley (4) Maintain composition of Council business development subcommittees (5) Support incubator model (6) How to fund Council business development priorities

Council had consensus on the following:

1. Support Business Development and Community Development's highest priorities.
2. Fund 1 full-time employee to support business development activities. Staff will review Council's feedback and direction and make a recommendation on what position would be appropriate.
3. Have 2 Council Business Development subcommittees - One committee to focus on business development (recruitment and retention) to be led by the Mayor and one to act as a liaison to the Chamber of Commerce.
4. Sponsor an event at the City reaching out to property owners with long-term vacancies downtown in order to work together in filling vacancies.
5. Prepare a letter in support of the U.S. Patent and Trademark Office coming to Silicon Valley.

The Study Session adjourned at 5:28 p.m.

CLOSED SESSION

Council reconvened at 5:40 p.m. in the 1st floor Council Conference Room at City Hall with all members present.

There were no members of the public present to comment on the Closed Session item.

CL1. Pursuant to Government Code Section 54957.6 to conference with labor negotiators regarding labor negotiations with the Service Employees International Union (SEIU)
Attendees: Alex McIntyre, City Manager, Starla Jerome-Robinson, Assistant City Manager, Bill McClure, City Attorney and Glen Kramer

The Closed Session adjourned at 6:10 p.m.

There was no reportable action from the Closed Session.

Pamela Aguilar
Deputy City Clerk

Minutes accepted at the Council meeting of



CITY COUNCIL
SPECIAL AND REGULAR MEETING DRAFT MINUTES

Tuesday, March 13, 2012 at 5:00 p.m.
 701 Laurel Street, Menlo Park, CA 94025
 City Council Chambers

Mayor Keith called the Closed Session to order at 5:00 p.m. with all members present.

There were no members of the public present to comment on the Closed Session item.

CL1. Closed Session pursuant to Government Code Section 54956.9 to conference with legal counsel regarding existing litigation, 1 case: Schuler v. City of Menlo Park
Superior Court of California, County of San Mateo, Case No. CIV500463

Mayor Keith called the Study Session to order at 6:10 p.m. with all members present.

REPORT FROM CLOSED SESSION

ACTION: There was no reportable action from Closed Session.

SS1. Consideration and guidance on the following Environmental Policies: (1) Whether to adopt a community-wide Greenhouse Gas Reduction target, and if a target is to be considered, which target should be recommended (2) Whether to prohibit distribution of single use carryout plastic bags and charge a minimum fee for single use paper bags at retail establishments, and (3) Whether to prohibit the distribution of polystyrene food ware at eating establishment ([Staff report #12-041](#))

Staff presentation by Rebecca Fotu, Environmental Programs Manager ([PowerPoint](#))

Environmental Quality Commission presentation on the Commission recommendations by Chair Mitch Slomiak

Public Comment

- Adam Montgomery on behalf of the Silicon Valley Association of Realtors regarding concerns with requiring energy and efficiency standards for transfer of title transactions resulting from the sale of real estate that is mentioned on page 9 of the staff report.
- Allison Chan on behalf of Save the Bay urged the Council to work with San Mateo County to move forward with ordinances to ban plastic bag and polystyrene food ware.
- Hank Lawrence stated that plastic bags are not just for single use and suggested an incentive to use reusable bags instead of banning them.
- Carol Taggart spoke in favor of banning plastic bags because they cause problems with marine wildlife as well as a littering problem. She supports charging for paper bags and noted that Styrofoam is a serious environmental problem.
- Elizabeth Houck stated that she supports banning plastic bags, including the plastic bags in the City Dog Park, which could be replaced with bio-bags.

Council Comment

K. Keith: Supports the goal of reaching the 27% in Greenhouse Gas reduction target by 2020, supports moving forward with San Mateo County for both the ban of plastic bags and polystyrene food ware.

P. Ohtaki: Comfortable with 17% in Greenhouse Gas reduction target due to the costs involved and supports moving forward with San Mateo County for both the ban of plastic bags and polystyrene food ware. He is opposed to including straws, lids and utensils because it is hard to implement.

K. Fergusson: Supportive of reaching 27% in Greenhouse Gas reduction target and supports moving forward with San Mateo County for both the ban of plastic bags and polystyrene food ware. She would like to keep the option to retain straws, lids and utensils open for discussion.

R. Cline: Supports the 27% in Greenhouse Gas reduction target but would like more options from staff. He supports moving forward with San Mateo County for both the ban of plastic bags and polystyrene food ware. He is supportive of pushing the County to include straws, lids and utensils in the ordinance.

K. Keith stated she has talked to various San Mateo County members of the Board of Supervisors who informed her that the ordinance on the polystyrene food ware does not include straws, utensils and lids at this time. The current version of the model polystyrene ordinance is what could proceed without contention.

A. Cohen: Supports the 27% in Greenhouse Gas reduction target but would like more information on the cost. Supports moving forward with San Mateo County for both the ban of plastic bags and polystyrene food ware.

The Council cautioned proceeding with the point of sale that was mentioned by Mr. Adam Montgomery during public comment and would like that discussed when the item returns to the Council.

Mayor Keith called the Regular Session to order at 7:12 p.m. with all members present.

The pledge of allegiance was led by Mayor Keith.

A. PRESENTATIONS AND PROCLAMATIONS

A1. Proclamation: Red Cross Month ([Attachment](#))

The proclamation was presented to Cindy Holzman with the Red Cross.

ANNOUNCEMENT

Mayor Keith announced that the City Council has reached a tentative agreement with SEIU and the staff report will be available on the website tomorrow.

A2. Presentation by Len Materman, San Francisquito Creek Joint Powers Authority ([PowerPoint](#))

A3. Presentation by Mendel Stewart and John Bourgeois, South Bay Salt Pond Restoration ([PowerPoint](#))

Public Comments

- Eileen McLaughlin spoke regarding the levees that go beyond the Salt Pond Project near the Facebook Campus.

- John Tarlton representing Menlo Business Park stated that they are pleased with the progress with the JPA and the levees in that part of town. There are discussions in East Palo Alto regarding reactivating a dormant well on Gloria Drive which raises concerns with and the potential for ground subsiding due to water distraction.

B. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS

The City Clerk's office is accepting applications for the Finance & Audit Committee and the Planning Commission.

C. PUBLIC COMMENT #1

- Elizabeth Houck spoke against the proposed ground water well for Sharon Heights Golf and Country Club and requested the Council require staff to follow the recommendation from the Environmental Quality Commission to suspend work on projects that tap ground water until a comprehensive ground water management plan is adopted. She also asked that any public/private partnerships go before the Finance and Audit Committee to be vetted.

D. CONSENT CALENDAR

ACTION: Motion and second (Fergusson/Ohtaki) to approve the Consent Calendar items D1, D3, and D4 passes unanimously.

- D1.** Authorize the City Manager to enter into an agreement with Green Earth Engineering and Construction for \$75,280 to complete rehabilitation of the Hollyburne Neighborhood Stabilization Program home ([Staff report #12-039](#))
- D3.** Adopt **Resolution No. 6051** authorizing a California Energy Commission Energy Efficiency and Conservation Block Grant Phase 2 application submittal ([Staff report #12-038](#))
- D4.** Award a contract to Lee Carpeting to supply carpet for the Main Library, authorize a budget for the Main Library Carpet Replacement Project in an amount not to exceed \$114,500 for carpet, contingency and staff administration, and adopt **Resolution No. 6053** authorizing the City Manager to execute the necessary construction agreements for the Menlo Park Public Library Lobby Remodel Project in an amount not to exceed \$100,000 ([Staff report #12-046](#))
- D5.** Consider the findings and actions to uphold the Appeal for determination regarding the use of a portion of an existing accessory structure as a secondary dwelling unit on a property located at 116 O'Connor Street ([Staff report #12-043](#))
Pulled by K. Keith for discussion

Public Comment

- Michelle Daher spoke against the item and provided five letters and information that proves that this is a bed & breakfast and the information given to the Council by the applicant is not truthful. ([Attachment](#))
- Steven Curavo spoke against the item stating that it is a detriment to the neighborhood.
- Jason Watson, appellant stated that this has been before the public on several occasions and has gone through the process and requested the appeal be granted.

- Shannon Thoke stated that the appropriate permits have been pulled and the cottage is not being used as a bed and breakfast facility.

ACTION: Motion and second (Fergusson/Ohtaki) to approve the findings and actions to uphold the Appeal for determination regarding the use of a portion of an existing accessory structure as a secondary dwelling unit on a property located at 116 O'Connor Street passes 3-2 (Cline and Keith dissenting).

- D2.** Adopt **Resolution No. 6052** amending the Sidewalk Accessibility Project budget to appropriate \$34,271 from the General Fund CIP fund balance, approving the plans and specifications for the Woodland Avenue Sidewalk Project, awarding a contract to J.J.R. Construction, Inc. in the amount of \$233,285 and authorizing a budget of \$303,271 for construction, contingencies, testing and engineering and construction administration ([Staff report #12-036](#))

Pulled by K. Keith for public comment

- Michelle Daher spoke in favor of this item and asked for consideration for expansion of the project to give cyclists more space.

ACTION: Motion and second (Fergusson/Ohtaki) to approve **Resolution No. 6052** amending the Sidewalk Accessibility Project budget to appropriate \$34,271 from the General Fund CIP fund balance, approving the plans and specifications for the Woodland Avenue Sidewalk Project, awarding a contract to J.J.R. Construction, Inc. in the amount of \$233,285 and authorizing a budget of \$303,271 for construction, contingencies, testing and engineering and construction administration passes unanimously.

- D6.** Accept the minutes for Council meeting of February 14, 2012 (Amended) and February 28, 2012 ([Attachment](#))

ACTION: Motion and second (Cohen/Fergusson) to accept Consent Calendar D6 passes unanimously.

E. PUBLIC HEARINGS: None

F. REGULAR BUSINESS

- F1.** Approve a letter to the City of East Palo Alto providing comments on the Draft Environmental Impact Report for the Ravenswood/4 Corners Transit Oriented Development Specific Plan ([Staff report #12-040](#)) ([Amended letter](#))
Staff presentation by Atul Patel, Senior Transportation Engineer ([PowerPoint](#))

Public Comment

- Michelle Daher spoke in support of the Draft Environmental Impact Report for the City of East Palo Alto, noting that and the community needs the economic base.
- Adina Levin stated that the DEIR did a great job at addressing bike trails and road change impacts. Ms. Levin noted that the City of East Palo Alto does not currently have a source of water to support the growth in the plan.

ACTION: Motion and second (Cline/Fergusson) to approve an amended letter, adding language regarding potential fire impact fee to support a fire ladder truck and clarification of the City

boundary line, to the City of East Palo Alto providing comments on the Draft Environmental Impact Report for the Ravenswood/4 Corners Transit Oriented Development Specific Plan.

ACTION: Friendly amendment by A. Cohen adding to the Utilities and Service Systems section, comments to clarify the concern related to the need for additional water resources for the specific plan in order to support the plan was accepted by Cline and Fergusson.

ACTION: Motion and second (Cline/Fergusson) to approve an amended letter, adding language regarding potential fire impact fee to support a fire ladder truck, clarification of the City boundary line and adding to the Utilities and Service Systems section, comments to clarify the concern related to the need for additional water resources for the specific plan in order to support the plan to the City of East Palo Alto regarding the Draft Environmental Impact Report for the Ravenswood/4 Corners Transit Oriented Development Specific Plan passes unanimously. (*Final letter*)

F2. Discuss and provide direction regarding the 2012-13 budget process ([Staff report #12-045](#)) Staff presentation by Carol Augustine, Finance Director ([PowerPoint](#))

ACTION: The Council took no formal action on the item, but provided staff with general direction regarding the 2012-13 budget process.

F3. Provide general direction on a revised 5-Year Capital Improvement Plan (CIP); general direction on Capital and other projects to be included in the City Manager's Proposed 2012-13 Budget ([Staff report #12-044](#))

Staff presentation by Carol Augustine, Finance Director ([PowerPoint](#))

Public Comment

- Amy McLaughlin spoke regarding using the M2 and the update to the Housing Element as a pilot project in order to take all of the modes of transportation into consideration instead of using outdated information.
- Adina Levin spoke regarding using the M2 area as a pilot project to look at other modes of transportation and referenced the City of Mountain View General Plan work.
- Chuck Kinney representing Trees for Menlo discussed the recent Caltrans time constraints for the trees along El Camino Real and requested that the Council consider moving the project to fiscal year 2012-13.
- Dick Poe stated that the city has received a tremendous benefit from the trees on El Camino Real project and requested that the Council consider allocating funds in fiscal year 2012-13.
- Ken Arutunian requested that the Council consider allocating funds in fiscal year 2012-13.
- Andrew Boone spoke regarding comprehensive planning projects included in the CIP. He suggested that the M2 area utilize a better planning project for transportation demand management (TDM).
- Fran Dehn representing the Chamber of Commerce spoke regarding the Dumbarton Transit Station. The Chamber of Commerce urges the Council to put this project back into the CIP as an active project.

ACTION: The Council took no formal action on the item, but provided staff with general direction.

F4. Adopt a resolution as Successor Agency to the former Redevelopment Agency (1) adopting an Enforceable Obligation Payment Schedule, (2) approving the Recognized

Obligation Payment Schedule, (3) approving the Successor Agency administrative budget, (4) making certain determinations regarding separate assets and liabilities of the Successor Agency, and (5) directing the City Manager to take all actions necessary to effectuate associated requirements of ABX1 26 ([Staff report #12-037](#))
Staff presentation by Carol Augustine, Finance Director ([PowerPoint](#))

ACTION: Motion and second (Ohtaki/Cline) to approve the **Resolution No. 6054** adopting Enforceable Obligation Payment Schedule, approving the Recognized Obligation Payment Schedule, approving the Successor Agency administrative budget, making certain determinations regarding separate assets and liabilities of the Successor Agency, and directing the City Manager to take all actions necessary to effectuate associated requirements of ABX1 26 passes unanimously.

F5. Consider state and federal legislative items, including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Item: None

G. CITY MANAGER'S REPORT: None

H. WRITTEN COMMUNICATION: None

I. INFORMATIONAL ITEMS

There was no formal staff report on this item.

I1. Biannual update of schedules for capital improvement projects ([Staff report #12-042](#))

J. COUNCILMEMBER REPORTS

By consensus a letter regarding the Mosquito Abatement will be brought for Council consideration.

K. PUBLIC COMMENT #2: None

L. ADJOURNMENT

The meeting was adjourned at 11:20 p.m.

Margaret S. Roberts, MMC
City Clerk

Minutes accepted at the Council meeting of



ADMINISTRATIVE SERVICES DEPARTMENT

Council Meeting Date: March 27, 2012
Staff Report #:12-048
Agenda Item #: E-1

PUBLIC HEARING: Adopt a Resolution Amending the City's Master Fee Schedule to Incorporate Proposed Changes in Fees to Become Effective Immediately or July 1, 2012 or as Required by Statute for the Following Departments: Community Development, Community Services, Library, and Public Works

RECOMMENDATION

Staff recommends City Council adopt a resolution amending the City's Master Fee Schedule to incorporate proposed changes in fees to become effective immediately or July 1, 2012 or as required by statute for the following departments: Community Development, Community Services, Library, and Public Works.

BACKGROUND

The Master Fee Schedule reflects fees charged by all City departments. It is usually amended annually so that fees reflect current costs to provide services, to bring fees closer to full cost recovery targets, to add new fees when applicable for new City services, and/or to eliminate fees for discontinued services.

The City imposes different categories of fees with different requirements regarding how fees are set or changed:

- Fees and charges for the use of facilities, services and access to property: These fees are elective on the part of the customer/user. The purpose of these fees and charges is to generate revenues for access or use of the service or facility. There is no legal restriction on the amount of such fees or charges, and they can be effective immediately.
- Property development processing fees: These include fees for building and use permits, variances, building inspections, map applications, and planning services. These fees cannot exceed the reasonable cost of providing the service. Any new fee or increase to existing fees in this category can be effective no sooner than sixty days after approval by City Council.
- Fees relating to public records act requests and copies of documents and reports: These fees are limited to the actual cost of copying (not including personnel time to copy) or the statutory amount, whichever is less. There are no changes recommended for any fees in this category at the present time.

ANALYSIS

Identifying the cost components of providing services is integral in the establishment of the fees and cost recovery rates. Accordingly, a detailed cost study was identified as a priority project for the 2006-07 Budget and completed in 2008-09. Staff has prepared the following recommendations using analyses provided by the Cost Allocation and Overhead Rate Study, the Fully Burdened Hourly Staff Labor Rate Study, the Comprehensive Fee and Service Charge Study, as well as Council comments on fees and recovery rates at both the February 10, 2009 Study Session and March 9, 2010 Council meeting at which the city-wide Cost Recovery Fee Policy/Strategy (Attachment C) was approved.

The recommendations presented by staff in this report ensure not only that charges keep pace with the costs of providing services, but are also competitive with comparable programs (where applicable), aligned with cost recovery levels defined in the Cost Recovery Fee Policy, and are responsive to demands for these services within the community. The proposed fee changes are summarized below, by department. Fees for which there are no recommended changes are not listed.

Community Development - Building

City Council adopted a completely revised Building Division fee schedule in Fiscal Year 2008-09 which was based on a new methodology for assessing building fees and reflects full cost recovery. The fees were based on time estimates established as a part of the "Full Cost Analysis of User Fee Services" report from Wohlford Consulting based on the type of construction, the type of occupancy, and the project square footage where staff time varies due to project complexity. The new fee structure also included flat fees for projects like non-structural kitchen and bath remodels where staff time spent on review and inspection is relatively consistent.

All of the fees are broken down into plan check fees and permit fees. Plan check fees incorporate staff's time to process the submittal and plan check the project for compliance with the City Municipal Code and State Building codes. Permit fees incorporate staff's time to issue the permit, schedule and make inspections.

As detailed on Attachment A, staff is proposing to change the base square footage used for the calculation of fees associated with single-family residential additions and/or alterations from 500 square feet to 250 square feet. Through the tracking of permit fees staff has determined that fees calculated on a base of 500 square feet do not accurately reflect the reduced amount of staff time spent on projects smaller than 500 square feet. Currently, staff manually calculates the fees for projects smaller than 500 square feet to account for the reduced staff time. The proposed adjustment to the fee calculation was derived using the same methodology as was originally used by Wohlford Consulting in the development of the current fee schedule. The adjustment to the base square footage used in calculating the fees will be revenue neutral since staff is currently manually modifying the fee structure for the smaller projects to reflect actual City costs. The advantages of the proposed adjustment in the fee calculation will provide more clarity for customers and increase staff efficiencies. If approved by Council, the adjustment to the fee calculation for small residential projects would take effect July 1, 2012.

Community Services

Several fee increases for recreation programs are suggested in order to continue progress toward the department’s long-term cost recovery goals. Staff believes the 2005 *Your City/Your Decision* community-driven budget process provided community direction and support for increasing the degree to which recreational services pay for themselves. The Cost Allocation Plan and User Fee Study and Policy also provides further clarification for making fee changes in order to align fees more appropriately to the costs of recreation services and some social service programs.

In accordance with the Cost Recovery Policy, staff has suggested the greatest fee increases for programs that are of special benefit to individuals or groups, where the goal is to set fees to a level sufficient to support direct program costs, plus up to 100% of City overhead associated with the activity. These programs provide individual benefit foremost, and minimal community benefit. Activities promoting the full utilization of parks and recreation facilities are also included in those recommended for the greatest fee increases.

Several programs delineated in the policy are included in the medium cost recovery category, with recovery of a majority of direct (budgeted) costs incurred in the delivery of the service, but without recovery of any of the costs which would have been incurred by the department without the service. Both the community and individuals benefit from these services.

The schedule below summarizes the current fees, proposed fees, and percentage change in certain Community Services fees. If approved, it is estimated that increases and new fees will generate an additional \$168,672 annually at current participation levels.

Fee Title	Current Fee	Proposed Fee	Change %
MENLO CHILDREN’S CENTER PRESCHOOL AND SCHOOL AGE CHILDCARE – RESIDENT:			
<i>Preschool</i> (per month)			
Toddler Room			
Full-time 5 days per week	\$ 1,717.00	\$ 1,769.00	3%
Part-time 3 days per week	1,253.00	1,291.00	3%
Part-time 2 days per week	979.00	1,008.00	3%
Early pre-school and Pre-school room			
Full-time 5 days per week	1,350.00	1,391.00	3%
Part-time 3 days per week	986.00	1,016.00	3%
Part-time 2 days per week	770.00	793.00	3%

Fee Title	Current Fee	Proposed Fee	Change %
MENLO CHILDREN'S CENTER - continued			
<u>Afterschool</u> (per month*)			
1 st - 5 th grades - Full-time 5 days per week	413.00	425.00	3%
1 st - 5 th grades - Full-time 3 days per week	300.00	310.00	3%
1 st - 5 th grades - Full-time 2 days per week	235.00	242.00	3%
Morning Kindergarten (Full-time 5 days per week)	650.00	670.00	3%
Morning Kindergarten (Full-time 3 days per week)	475.00	489.00	3%
Morning Kindergarten (Full-time 2 days per week)	371.00	382.00	3%
Afternoon Kindergarten (Full-time 5 days per week)	426.00	460.00	8%
Afternoon Kindergarten (Full-time 3 days per week)	306.00	331.00	8%
Afternoon Kindergarten (Full-time 2 days per week)	243.00	262.00	8%
*based on 10 month school year calendar			
<u>Seasonal Programs</u>			
Camp Programs			
2 week program - 1 st through 5 th grades	364.00	375.00	3%
- Middle School	364.00	375.00	3%
- Kindergarten	434.00	447.00	3%
Weekly Camps	250.00	258.00	3%
Morning Program – 8:30 am to Noon			
5 days a week (per month)	-0-	538.00	New
3 days a week (per month)	-0-	341.00	New
2 days a week (per month)	-0-	239.00	New
Extended Morning – 8:30 am to 2:00 pm			
5 days a week (per month)	-0-	846.00	New
3 days a week (per month)	-0-	536.00	New
2 days a week (per month)	-0-	376.00	New
Field Trips are subject to extra fees. Non-resident fee 35% higher than the non subsidized resident fee.			
<u>Miscellaneous Childcare Fees</u>			
Late Tuition Payment Fee – Assessed if payment not received by the 5 th of the month	10.00	20.00	100%
BELLE HAVEN:			
<u>CDC Preschool (non-certified program)</u>			
Resident (per month)	804.27*	854.00	6%
Non-Resident (per month)	1,085.93*	1,153.00	6%
Toddler – Resident (per month)	-0-	1,086.00	New
Toddler – Non-resident (per month)	-0-	1,466.00	New
*Daily Rates of \$37.12 and \$50.12 converted to monthly.			
<u>CDC - Miscellaneous Childcare Fees</u>			
Late Pick-up Fee – Per child not picked up by schedule closing time			
- First 10 minutes	-0-	15.00	New
- Each additional minute	-0-	1.00	New

Fee Title	Current Fee	Proposed Fee	Change %
BELLE HAVEN- continued			
<u>Afterschool (Resident)</u>			
Kindergarten through 6 th grade – standard start (non-subsidized)	468.00	482.00	3%
Kindergarten through 6 th grade – standard start (subsidized*)			
Extremely low income	62.40	64.25	3%
Very low income	104.00	107.00	3%
Kindergarten through 6 th grade – early start (non-subsidized)	716.00	737.50	3%
Kindergarten through 6 th grade – early start (subsidized*)			
Extremely low income	81.00	83.50	3%
Very low income	135.00	139.00	3%
*fee charged based on income levels set by the SMC Housing Office. Subsidized rates for eligible residents only. Non-resident fee 35% higher than the non subsidized resident fee.			
<u>Seasonal Programs (Resident)</u>			
Camp Programs			
2 week program -			
1 st through 6 th grade (non-subsidized)	364.00	375.00	3%
1 st through 6 th grade (subsidized*)			
Extremely low income	94.00	97.00	3%
Very low income	135.00	139.00	3%
Kindergarten (non-subsidized)	-0-	447.00	New
Kindergarten (subsidized*)			
Extremely low income	-0-	115.75	New
Very low income	-0-	165.75	New
1 week program -			
Kindergarten through 6 th grade (non-subsidized)	250.00	257.50	3%
Kindergarten 6 th grade (subsidized*)			
Extremely low income	45.00	46.50	3%
Very low income	65.00	67.00	3%
(Field Trips are subject to extra fees)			
*fee charged based on income levels set by the SMC Housing Office. Subsidized rates for eligible residents only. Non-resident fee 35% higher than the non subsidized resident fee.			
<u>Kindergarten Preparation</u>			
Resident (non-subsidized)	-0-	525.25	New
Resident (subsidized*)			
Extremely low income	-0-	136.25	New
Very low income	-0-	195.00	New
<u>Miscellaneous Childcare Fees</u>			
Parents Night Out – (3 hours) First Child	-0-	20.00	New
Add'l Sibling	-0-	10.00	New
Children not enrolled in a seasonal program	-0-	25.00	New

Fee Title	Current Fee	Proposed Fee	Change %
ARRILLAGA FAMILY RECREATION CENTER:			
<u>Facility Rental</u>			
Multi-room Discount – on any additional room(s) rental at the same time – applies only to the lower cost room	-0-	(30%)	New
ARRILLAGA FAMILY GYMNASIUM:			
<u>Court Rental Fee</u>			
Non-resident – per hour	85.00	95.00	12%
ARRILLAGA FAMILY GYMNASTICS CENTER:			
<u>Gymnastics – Per hour fee</u>			
1– 2 hours per week	11.75	12.50	6%
3 hours per week	9.25	9.75	5%
6 hours per week	7.85	8.30	6%
9 hours per week	7.50	7.90	5%
12 hours per week	7.00	7.35	5%
15 hours per week	6.30	6.55	4%
<u>Birthday Parties</u> – up to 20 Children	123.00	175.00	42%
<u>Private Lessons</u>			
1/2 hour – resident	30.00	30.00	No change
1 hour – resident	53.00	-0-	Eliminated
<u>Room Rentals</u> – per hour			
Gymnastics Room – Resident	-0-	160.00	New
Gymnastics Room – Non-resident	-0-	200.00	New
Fitness Room – Resident	-0-	25.00	New
Fitness Room – Non-resident	-0-	35.00	New
Multi-Purpose Room – Weekday – Resident	-0-	35.00	New
Multi-Purpose – Weekday – Non-resident	-0-	50.00	New
Multi-Purpose – Weekend – Resident	-0-	50.00	New
Multi-Purpose – Weekend – Non-resident	-0-	70.00	New
Security Deposit – 1 Day Rental	-0-	250.00	New
Security Deposit – Multi-Day Rental	-0-	500.00	New
YOUTH AFTERSCHOOL SPORTS			
Per season - per team			
Volleyball - All Grades - resident	450.00	517.00	15%
Volleyball - All Grades - non resident	608.00	699.00	15%
Basketball - 3 rd & 4 th Grades - resident	594.00	624.00	5%
Basketball - 3 rd & 4 th Grades - non res.	740.00	777.00	5%
Basketball - 5 th to 7 th Grades - resident	764.00	802.00	5%
Basketball - 5 th to 7 th Grades - non res.	919.00	965.00	5%

Fee Title	Current Fee	Proposed Fee	Change %
ADULT SPORTS – LEAGUES			
Per season - per team			
Basketball	738.00	760.00	3%
Softball – Men’s	836.00	878.00	5%
Softball – Co-ed	651.00	684.00	5%
TENNIS COURTS			
Yearly Key – Residents	50.00	50.00	No Change
Non Residents	100.00	100.00	No Change
Court Rental – Special Events			
Resident – per hour	5.00	*7.00	40%
Non resident – per hour	-0-	*10.00	New
*Hourly Fee in Addition to Yearly Tennis Key Purchase			
Court Rental – Day Use – up to one week -			
Per Day Fee	-0-	5.00	New
BEDWELL BAYFRONT PARK			
Special Event Park Usage – per day (non-exclusive use of park)	-0-	100.00	New

Child Care Programs

Menlo Children’s Center (MCC) Preschool Programs: Staff recommends a 3% increase in the monthly fees for full-time and part-time day care. The recommended increase covers a 3% CPI change in calendar year 2011 and narrows the gap between covering direct program costs and full cost. Also included are monthly rates for the morning programs that are based on approximately 180 days of service in 10 equal payments (program follows the Menlo Park School District calendar). Estimated increase in annual revenue is \$24,000.

Menlo Children’s Center (MCC) Afterschool Programs and Camp Programs: Staff recommends a 3% increase in monthly afterschool and summer camp fees and an 8% increase in Afternoon Kindergarteners to cover the higher staffing ratios for younger children. The proposed increases cover the 3% increase in CPI for 2011 and narrows the gap between direct program costs and full cost. Currently, the monthly fees for afterschool programs are prorated during months with school breaks. The proposed monthly fees are based on approximately 180 days of service and covers all instructional school days, according to the school calendars in 10 equal payments. Finally, staff is recommending that the Late Tuition Payment Fee of \$10 be increased to \$20. The estimated increase in annual revenue is \$17,500.

Belle Haven Child Development Center: The per day fee for non-certified (full cost) children is currently equal to the maximum reimbursement rate from the State of California of \$37.12 for children without special needs and \$40.83 for children with special needs. These are the minimum rates that can be charged to families that are non-certified; there is no maximum rate. Staff is proposing replacing the daily fees with one blended monthly fee for all children (there is no need to link the fee with the State reimbursement rate) and improve cost recovery. Staff is also recommending adding new fees for Toddler daily care. These new fees would only be added if cuts were made by the State to the preschool program and a classroom and staff were available to implement the program in FY 2012-13. Finally, staff is recommending that the Late Pick-up Fee of \$15 for the first ten minutes and \$1 for each additional minute currently charged to participants in MCC and Belle Haven School Age programs also apply to the BHCDC program participants. The estimated increase in annual revenue is \$8,138.

Belle Haven School Age Programs: The Belle Haven School Age Program has subsidized and non-subsidized fee schedules for the monthly afterschool program and summer camp program. The program serves 40-55 children (93% residents) during the school year and approximately 74 children (95% residents) during the summer months. Staff recommends a 3% increase to the afterschool monthly fees for subsidized and non-subsidized participants. Staff proposes two new programs and fees: Parents' Night Out and Kindergarten Preparation. Parents Night Out is a program designed to provide unlicensed care for children periodically at the center and the Kindergarten Preparation program addresses the potential need in the community based on the new age requirements for children entering into Kindergarten. Currently, children enrolled at BHCDC that turn 5 on or before December 1st will no longer be eligible for subsidized care at the Center. This program will address the need while preparing children for kindergarten 4 hours a day, Monday to Friday. The estimated increase in annual revenue is \$13,134.

Recreation Programs

Arrillaga Family Recreation Center: With the increase in Facility Rentals at the newly remodeled recreation center, many rental groups are interested in renting more than one room at the facility. In order to increase rentals and make it more attractive to groups to rent an additional room, staff is recommending a 30% discount for any additional room. This will be especially attractive to wedding rentals seeking a separate room for preparation before the main event starts. Staff plans to advertise this added benefit to potential customers in wedding packages. The estimated increase in annual revenue is \$4,000.

Arrillaga Family Gymnasium: Staff recommends increasing the non-resident rate for Court Rental from \$85 to \$95 per hour. With the change, the rate will align the non-resident surcharge rate of 135% the resident rate of \$70.

Arrillaga Family Gymnastics Center: The new Center will be completed in April 2012. Staff is recommending fee increases in *Gymnastics Classes* in the range of 4% to 6%, increasing *Birthday Parties* by 42%, and the elimination of the discounted *Private Lesson* fees for a one hour session as part of a multi-year strategy to raise fees closer to those of private gymnastics facilities in the area. With the higher quality and expanded facility, fee increases will support the overall cost recovery and continued development of the program. These fee increases, if approved, would be effective on April 4, 2012, and are estimated to result in an annual increase in revenue of \$60,500.

Also, with the new facility, there will be opportunities for the public and local organizations to rent the *Gymnastics Room* (main gymnastics floor area), the *Fitness Room*, or the *Multi-purpose* meeting room during non-city program times. These new fees, and the refundable security deposit fees, are comparable to other new rates at the recreation center and gymnasium and are comparable to the rates changed by other gymnastics facilities in the region. The estimated annual increase in revenue from these new fees is \$30,000.

Youth Afterschool Sports Leagues: Staff recommends increasing the youth league fees again this year as part of the phased approach to have sports league fees reach the program's cost recovery goal and be in alignment with other surrounding communities' league fees. If the recommended 15% increase is approved, youth volleyball league rates will be \$517 per resident team, and \$699 per non-resident team. Staff also recommends increasing the youth basketball league fees by 5% to \$624 per resident team (grade 3-4), and \$802 per resident team (grade 5-7). For non-resident teams, fees of \$777 for grades 3-4 and \$965 for grades 5-7 are proposed. The new fees are reasonable and consistent with those charged for other facilities in the area. Facility costs are generally included in the fees for team participation, which do not typically change based on location of team play. The estimated increase in annual revenue is \$8,200.

Adult Sports Leagues: Staff recommends increasing the fees for adult basketball leagues slightly to \$760 per team - a 3% increase. The fees for adult softball field use are recommended to increase approximately 5% to \$878 for men's and \$684 for co-ed teams. The estimated increase in annual revenue is \$1,500.

Tennis Courts: The City currently has only an annual key fee and does not have a day use fee. However, requests for this service have increased in the past few years. Therefore, staff proposes a *Day Use* fee of \$5 per day. Key rentals would be available Monday through Friday from 8 am to 10 pm. The key must be returned by noon the following work day or the customer would be charged for an additional day. After 7 consecutive days, the renter would be charged the \$50 (resident) or \$100 (non-resident) *Yearly Key* fee based on residency. The estimated increase in annual revenue is \$150.

Also, staff recommends increasing the per hour *Court Rental* fee for residents from \$5 to \$7 and establishing a new non-resident fee of \$10 per hour. In addition, renters would be required to purchase an annual tennis key. These changes are requested to respond to the increase of unauthorized private tennis lessons on the City courts as well as requests for court rentals from the USTA and other tennis organizations. The estimated increase in annual revenue is \$550.

Bedwell Bayfront Park: Currently, the City does not charge for using Bedwell Bayfront Park for non-City sponsored special events. However, these events have an impact to City staff resources and park staff. A new fee of \$100 per day is recommended to offset some of these costs. The estimated increase in annual revenue is \$1,000.

Non-resident surcharge: Staff does not recommend changing the non-resident surcharge for Community Services programs from the current rate of 35 percent of the resident fee. For example, if a resident fee is \$100, the non-resident fee is \$135, which includes the \$35 surcharge. This surcharge percentage applies when a specific dollar amount for non-resident use has not been specifically stated.

Library

The schedule below summarizes the current fees, proposed fees, and percentage change in Library fees. Only fees for which a change is proposed are listed. However, for fee increases proposed by the Peninsula Library System staff recommends that Council extend approval authority to the City Manager.

Fee Title	Current Fee	Proposed Fee	Change %
DAMAGED MATERIALS			
Fee based on extent of damage as determined by staff	.50 to 10.00	.50 to the value of the damage item plus \$5.00 for processing	varies

Damaged Materials: Staff recommends replacing the \$10 maximum charge for damaged materials with actual or estimated cost plus an additional \$5 service fee. The \$5 will cover the cost of repairing/processing items that are damaged and/or replaced. The annual change in revenue if this change is approved is minimal.

Library Fees Set by the Peninsula Library System: The City is one of eight jurisdiction members of the Peninsula Library System (PLS) which includes all the public and community college libraries in San Mateo County. The library support services of the PLS are provided to members under a joint powers agreement. Some library fees are established by the Board of the PLS and later presented for approval by the governing board of each member. These fees are, *Hold Placement*, *Overdue Fines*, and *the Collection Agency Fee*. As of the writing of this staff report the PLS has not established increases in these fees for the next fiscal year. Typically, Library fees are low and increases are minimal. Because of the small amount of the revenue increase resulting from changes in Library fees and the high cost of noticing and holding a public hearing to present these small increases it is not cost effective to hold a special public hearing to approve the fee changes of the PLS. To insure that fee increases established by the PLS are promptly implemented, staff recommends that the Council extend approval authority of the PLS-required fee increases to the City Manager (or designee) with the understanding that the Council and library patrons will be advised of all fee changes in advance of the date the revised fee is put in place.

Public Works

The schedule below summarizes the current fees, proposed fees, and percentage change in Public Works fees. Only fees for which a change is proposed are listed. If approved, it is estimated that the increases will generate an additional \$8,500 annually.

Fee Title	Current Fee	Proposed Fee	Change %
ENCROACHMENT PERMITS			
Appeal to City Council of any Encroachment Permit Action	\$ 150.00	\$ 175.00	17%
TRAFFIC IMPACT FEE APPEAL			
Appeal to City Council	150.00	175.00	17%
HERITAGE TREE			
Appeals to Environmental Quality Commission or City Council			
First Tree	150.00	175.00	17%
Each Additional Tree	50.00	75.00	50%
Not to Exceed Maximum Fee	250.00	300.00	20%
CONSTRUCTION AND DEMOLITION (C&D) DEBRIS RECYCLING			
Administrative Fee	150.00	300.00	100%

Encroachment Permits: Staff recommends a 17% increase in the fee for Appeal to the City Council of any Encroachment Permit action. Staff recommends the appeal fee be increased from the current \$150 to \$175. Staff costs of an Encroachment Permit appeal are estimated to be \$2,000 per appeal. The annual increase in revenue is estimated to be minimal.

Traffic Impact Fee Appeal: This fee was first imposed last year to partially recover costs associated with an appeal to the City Council by a developer, after it was determined that it cost over \$1,000 to process the appeal. Staff recommends the appeal fee be increased from the current \$150 to \$175. The annual increase in revenue is estimated to be minimal.

Heritage Tree: Staff recommends increasing the base appeal fee from \$150 to \$175, increasing the fee for each additional tree from \$50 to \$75, and increasing the maximum fee from \$250 to \$300. Four appeals were processed in FY 2010-11 with one appeal going to Council, to date in FY 2011-12 two appeals have been processed. Staff costs of a heritage tree appeal are estimated to be over \$7,000 per appeal. Staff believes that these appeal fees should continue to be affordable given the importance of retaining heritage trees for the community. The annual increase in revenue is estimated to be \$100.

Construction and Demolition (C&D) Debris Recycling: Based on the amount of staff time it takes to verify compliance with the ordinance before refunding a C&D deposit staff recommends increasing the Administrative fee from the current \$150 to \$300. A small deposit refund of less than \$3,000 takes 1.5 to 2 hours of staff time to complete. Refunds of larger deposits incrementally add more staff time to evaluate and document. In FY 2011-12 there were 56 refunded deposits processed. The annual increase in revenue is estimated to be \$8,400.

Menlo Park Municipal Water District (MPMWD)

Water Rates: The rates for MPMWD services through June 30, 2015 were approved at the May 18, 2010 Council meeting. This recap is presented for informational purposes only.

The City hired Bartel Wells Associates to review the MPMWD water rates to determine if the rates were adequate over time to pay for the anticipated increase in wholesale water costs, ongoing replacement projects, and any planned major capital projects. The comprehensive report was presented to Council on March 23, 2010. At a public hearing on May 18, 2010, Council approved Resolution No. 5929 adopting annual rate increases (over each of the five fiscal years) to the consumption charge and fixed monthly meter charge, and capital facilities charge based on consumption. The annual rate increases for the meter charge and water consumption are 16.5 percent each year. The annual rate increases for capital facilities charge, also based on consumption, are based on the change in the *Bay Area Construction Cost Index*. The change in the index for calendar year 2011 was 8.3 percent.

The approved increased rates, effective as of July 1 of each year, are listed below.

Water Consumption Charge – Per CCF

Water Consumption	Approved 2010-2011	Approved 2011-2012	Approved 2012-2013	Approved 2013-2014	Approved 2014-2015
First 5 hundred cubic feet (ccf)	\$1.46	\$1.70	\$1.98	\$2.32	\$2.69
Next 6 through 10 ccf	1.83	2.13	2.48	2.90	3.37
Next 11 through 25 ccf	2.19	2.55	2.98	3.47	4.04
Consumption over 25 ccf	2.93	3.41	3.97	4.63	5.39

Water Meter Charge - Per Month

Meter Size	Approved 2010-2011	Approved 2011-2012	Approved 2012-2013	Approved 2013-2014	Approved 2014-2015
¾" or smaller	\$ 9.14	\$ 10.65	\$ 12.41	\$ 14.46	\$ 16.84
1"	14.61	17.03	19.85	23.12	26.94
1-1/2"	30.15	35.14	40.95	47.70	55.57
2"	48.42	56.43	65.77	76.62	89.26
3"	88.62	103.27	120.36	140.21	163.35
4"	137.04	159.71	186.12	216.83	252.61
6"	304.24	354.56	413.20	481.38	560.81
8"	675.16	786.83	916.98	1,068.28	1,244.54
10"	1,498.33	1,746.16	2,034.97	2,370.74	2,761.91

Capital Facilities Charge – Per CCF

Per CCF (100 cubic feet)	Approved 2010-2011	Approved 2011-2012	Approved 2012-2013	Approved 2013-2014	Approved 2014-2015
Annually adjusted based on the Construction Cost Index, as published in the Engineering News Record for the Bay Area.	\$ 0.41	\$ 0.43	\$ 0.47	Based on change in Engineering News Record	Based on change in Engineering News Record

IMPACT ON CITY RESOURCES

The estimated annual net increase in General Fund revenue from the revisions discussed in this report is \$177,172.

User fees provide a significant source of cost recovery for the City. The recommended revisions to the Master Fee Schedule will be built into the 2012-13 budget recommendations and will help in maintaining service levels in the current fiscal year.

POLICY ISSUES

The fee changes proposed in this report are in compliance with the Cost Recovery / Subsidization Policy adopted by Council on March 9, 2010.

ENVIRONMENTAL REVIEW

Adoption of a Master Fee Schedule is categorically exempt under current California Environmental Quality Act guidelines.

Carol Augustine
 Finance Director

John McGirr
 Revenue & Claims Manager

Cherise Brandell
 Director
 Community Services Department

Charles Taylor
 Director of Public Works

Susan Holmer
 Director
 Library

Arlinda Heineck
 Director
 Community Development Department

PUBLIC NOTICE: Published legal notice on March 14 and 21, 2012 in The Country Almanac

ATTACHMENTS: A) Community Development – Building – Fee List
B) Resolution Amending City Fees and Charges
C) User Fee Cost Recovery – Fiscal Policy

Community Development - Building

CURRENT FEE Size Basis 500 Square Feet (SF)	Construction Type & Ration of Required Effort:									
	V-A / V-B		III-A / III-B		IV		II-A / II-B		I-A / I-B	
	Relative Effort Factor		Relative Effort Factor		Relative Effort Factor		Relative Effort Factor		Relative Effort Factor	
<u>Plan Check</u>	1.00		1.14		1.30		1.36		1.46	
	Base Cost	Each Addition SF	Base Cost	Each Addition SF	Base Cost	Each Addition SF	Base Cost	Each Addition SF	Base Cost	Each Addition SF
R-3 Single Family Residential - Addition	\$ 1,063.00	\$ 0.988	\$ 1,211.82	\$ 1.126	\$ 1,381.90	\$ 1.284	\$ 1,445.68	\$ 1.344	\$ 1,551.98	\$ 1.442
R-3 Single Family Residential - Alteration	\$ 1,004.00	\$ 0.093	\$ 1,144.56	\$ 1.062	\$ 1,304.20	\$ 1.212	\$ 1,365.44	\$ 1.268	\$ 1,465.84	\$ 1.361
<u>Permit (Inspection)</u>										
R-3 Single Family Residential - Addition	\$ 1,146.00	\$ 0.484	\$ 1,306.44	\$ 0.552	\$ 1,489.80	\$ 0.629	\$ 1,558.56	\$ 0.658	\$ 1,673.16	\$ 0.707
R-3 Single Family Residential - Alteration	\$ 804.00	\$ 0.340	\$ 916.56	\$ 0.388	\$ 1,045.20	\$ 0.442	\$ 1,093.44	\$ 0.462	\$ 1,173.84	\$ 0.496
PROPOSED FEE Size Basis 250 Square Feet (SF)										
<u>Plan Check</u>										
R-3 Single Family Residential - Addition	\$ 761.00	\$ 1.060	\$ 867.00	\$ 1.210	\$ 989.30	\$ 1.380	\$ 1,034.96	\$ 1.440	\$ 1,111.06	\$ 1.550
R-3 Single Family Residential - Alteration	\$ 648.00	\$ 1.096	\$ 738.72	\$ 1.230	\$ 842.40	\$ 1.420	\$ 881.28	\$ 1.490	\$ 946.08	\$ 1.600
<u>Permit (Inspection)</u>										
R-3 Single Family Residential - Addition	\$ 862.00	\$ 0.701	\$ 982.68	\$ 0.799	\$ 1,120.60	\$ 0.912	\$ 1,172.32	\$ 0.954	\$ 1,258.52	\$ 1.020
R-3 Single Family Residential - Alteration	\$ 691.60	\$ 0.376	\$ 788.88	\$ 0.428	\$ 899.60	\$ 0.488	\$ 941.12	\$ 0.510	\$ 1,010.32	\$ 0.548

Plan Check and Permit (inspection) fees for single family residential additions and alterations are based on the square footage of the proposed project, construction type, and occupancy group, which come from the building code. The fee amounts above were determined by multiplying cost of each of the staff positions times the amount of time staff spends performing all of the activities associated (relative effort) with the plan check and inspection of the project based on the square footage, construction type and occupancy group.

Construction Types:

Types I and II construction are those types of construction in which the building elements are of noncombustible materials

Type III construction is that type of construction in which the exterior walls are of noncombustible materials and the interior building elements are of any material permitted by the California Building Code (CBC).

Type IV construction (Heavy Timber, HT) is that type of construction in which the exterior walls are of noncombustible materials and the interior building elements are of solid or laminated wood without concealed spaces.

Type V construction is that type of construction in which the structural elements, *exterior walls* and interior walls are of any materials permitted by the CBC.

A or B designation: For each construction type that has an A or B designation, the A or B equates to a fire resistive rating as established by Table 601 in the CBC.

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
AMENDING CITY FEES AND CITY CHARGES**

WHEREAS, under the provisions of the City of Menlo Park Municipal Code Section 1.25.010, fees and charges assessed by the City of Menlo Park may be amended or modified upon the adoption of a Resolution by the City Council; and

WHEREAS, the City Council of the City of Menlo Park considers that said amended fees, as per Staff Report #12-048 dated March 27, 2012 are appropriate and should be adopted.

The City Council of the City of Menlo Park makes the following findings:

1. User fee services are those performed by the City on behalf of a private citizen or group with the assumption that the costs of services benefiting individuals, and not society as a whole, should be borne by the individual receiving the benefit. However, in some circumstances, it is reasonable to set fees at a level that does not reflect the full cost of providing service but to subsidize the service.
2. A listing of the fee changes proposed for City services was available to the public for at least ten days preceding the Public Hearing on March 27, 2012, at which time the fees were adopted.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED that the Master Fee Schedule last amended April 5, 2011, is hereby amended to take effect on the date this resolution is passed and adopted; and

BE IT FURTHER RESOLVED that the City Manager is authorized to waive, modify or amend fees on any matter in his/her reasonable discretion, provided that said fees may not be increased and if he/she does so, he/she shall so advise the City Council.

PASSED AND ADOPTED at a regular meeting of the Menlo Park City Council on the twenty-seventh day of March, 2012, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Menlo Park this twenty-seventh day of March, 2012.

Margaret S. Roberts, MMC, City Clerk

City of Menlo Park

Fiscal Policy

Department City Council	Page 1 of 11	Effective Date 03/09/10
Subject User Fee Cost Recovery	Approved by Minute Order March 9, 2010	Procedure # CC-10-0001

Purpose:

A clear User Fee Cost Recovery Policy will allow the City of Menlo Park to provide an ongoing, sound basis for setting fees that allows charges and fees to be periodically reviewed and updated based on predetermined, researched and supportable criteria that can be made available to the public.

Background:

In 2005 the *Your City/Your Decision* community driven budget process provided community direction and initial information on approaches to cost recovery of services. In 2007, the Cost Allocation Plan provided further basis for development of a standardized allocation system by providing a methodology for data-based distribution of administrative and other overhead charges to programs and services. The Cost of Services Study completed in 2008 allowed the determination of the full cost of providing each service for which a fee is charged and laid the final groundwork needed for development of a values-based and data-driven User Fee Cost Recovery Policy. A draft User Fee Cost Recovery Policy was presented for consideration by the Council at a Study Session on February 10, 2009. Comments and direction from the Study Session were used to prepare this Fiscal Policy.

Policy:

The policy has three main components:

- Provision for ongoing review
- Process of establishing cost recovery levels
 - Factors to be Considered
- Target Cost Recovery Levels
 - Social Services and Recreation Programs
 - Development Review Programs
 - Public Works
 - Police
 - Library
 - Administrative Services

Provision for ongoing review

Fees will be reviewed at least annually in order to keep pace with changes in the cost of living and methods or levels of service delivery. In order to facilitate a fact-based approach to this review, a comprehensive analysis of the city's costs and fees should be made at least every five years. In the interim, fees will be adjusted by annual cost factors reflected in the appropriate program's operating budget.

Process of establishing service fee cost recovery levels

The following factors will be considered when setting service fees and cost recovery levels:

1. Community-wide vs. special benefit
 - The use of general purpose revenue is appropriate for community-wide services while user fees are appropriate for services that are of special benefit to individuals or groups. Full cost recovery is not always appropriate.
2. Service Recipient Versus Service Driver
 - Particularly for services associated with regulated activities (development review, code enforcement), from which the community primarily benefits, cost recovery from the "driver" of the need for the service (applicant, violator) is appropriate.
3. Consistency with City public policies and objectives
 - City policies and Council goals focused on long term improvements to community quality of life may also impact desired fee levels as fees can be used to change community behaviors, promote certain activities or provide funding for pursuit of specific community goals, for example: health and wellness, environmental stewardship.

City of Menlo Park

Fiscal Policy

Department City Council	Page 2 of 11	Effective Date 03/09/10
Subject User Fee Cost Recovery	Approved by Minute Order March 9, 2010	Procedure # CC-10-0001

4. Impact on demand (elasticity)
 - Pricing of services can significantly impact demand. At full cost recovery, for example, the City is providing services for which there is a genuine market not over-stimulated by artificially low prices. Conversely, high cost recovery may negatively impact lower income groups and this can work against public policy outcomes if the services are specifically designed to serve particular groups.
5. Discounted Rates and Surcharges
 - Rates may be discounted to accommodate lower income groups or groups who are the target of the service, such as senior citizens or residents.
 - Higher rates are considered appropriate for non-residents to further reduce general fund subsidization of services.
6. Feasibility of Collection
 - It may be impractical or too costly to establish a system to appropriately identify and charge each user for the specific services received. The method of assessing and collecting fees should be as simple as possible in order to reduce the administrative cost of collection.

Target cost recovery levels

1. Low cost recovery levels (0% – 30%) are appropriate if:
 - There is no intended relationship between the amount paid and the benefit received
 - Collecting fees is not cost-effective
 - There is no intent to limit use of the service
 - The service is non-recurring
 - Collecting fees would discourage compliance with regulatory requirements
 - The public at large benefits even if they are not the direct users of the service
2. High cost recovery levels (70% – 100%) are appropriate if:
 - The individual user or participant receives the benefit of the service
 - Other private or public sector alternatives could or do provide the service
 - For equity or demand management purposes, it is intended that there be a direct relationship between the amount paid and the level and cost of the service received
 - The use of the service is specifically discouraged
 - The service is regulatory in nature
3. Services having factors associated with both cost recovery levels would be subsidized at a mid-level of cost recovery (30% - 70%).

General categories of services tend to fall logically into the three levels of cost recovery above and can be classified according to the factors favoring those classifications for consistent and appropriate fees. Primary categories of services include:

- Social Services and Recreation Programs
- Development Review Programs – Planning, and Building
- Public Works Department – Engineering, Transportation, and Maintenance
- Public Safety

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Social Services and Recreation Programs

Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
9	<u>Parks</u>			
	Dog Park	X		
	Skate Parks	X		
	Open Space/Parks Playgrounds	X X		
7 11 10 11 11 7 7 11	<u>Social Services</u>			
	Senior Transportation	X		
	Senior Classes/Events	X		
	Belle Haven School Age – Title 22		X	
	Menlo Children’s Center – Title 22			X
	Preschool - Title 22			X
	Preschool – Title 5		X	
	Second Harvest	X		
Congregate Nutrition		X		
11	Belle Haven Community School		X	
	<u>Events/Celebrations</u>			
	City Sponsored	X		
	City-Wide	X		
	Youth & Teen Targeted	X		
	Cultural Concerts	X X		
5, 6, 7 9 9 9 10 5,6,7 9 5,6,7,8,9,10	<u>Facility Usage</u>			
	City Functions (e.g. commissions)	X		
	Co-Sponsored Organizations	X		
	Non-Profit	X		
	Fields - Youth (non-profit)		X	
	Fields - Adult (non-profit)		X	
	Tennis Courts		X	
	Picnic Rentals - Private Party			X
	Private Rentals			X
	Fields - For-profit			X
Contracted Venues – for profit			X	
8 8 8 7 11	<u>Fee Assisted Programs</u>			
	Recreational Swim	X		
	Swimming Classes	X		
	Lap Swimming	X		
	Recreation Classes	X		
11	Open Gym Activities	X		

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Social Services and Recreation Programs - continued

Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
	<u>Recreation Programs</u>			
11	Drop-In Activities		X	
10,11	Camps & Clinics			X
9	Youth Leagues			X
10	Youth Special Interest			X
10	Adult Special Interest			X
12	Gymnastics			X
6,12	Birthday Parties			X
11	Adult League			X

Low Recovery Expectations: Low to zero recovery is expected for programs in this category as the community benefits from the service. Non-resident fees if allowed may provide medium cost recovery.

In general, low cost programs or activities in this group provide a community wide benefit. These programs and activities are generally youth programs or activities enhancing the health, safety and livability of the community and therefore require the removal of a cost barrier for optimum participation. Recreation programming geared toward the needs of teens, youth, seniors, persons with disabilities, and/or those with limited opportunities for recreation are included. For example:

- Parks – As long as collecting fees at City parks is not cost-effective, there should be no fees collected for general use of parks and playgrounds. Costs associated with maintaining the City's parks represent a large cost for which there is no significant opportunity for recovery – these facilities are public domains and are an essential service of City government.
- Social Services – There is no intended relationship between the amount paid and the benefit received for social service programs. Some programs are designed and delivered in coordination/partnership with other providers in Menlo Park.
- Senior Transportation – Transportation is classified as a low cost recovery program because there is no fee charged for the program and the majority of the seniors served cannot afford the actual cost of the service. Donations are solicited, but they are minimal. No fee should be established for this service, as it would threaten ridership and County reimbursements would be withdrawn.
- Senior Classes/Events – The primary purpose of senior classes and events is to encourage participation. The seniors served in these classes do not have the means of paying for the classes and are classified as “scholarship” recipients due to their low income levels. The classes should continue to be offered in collaboration with outside agencies which can offer them for free through state subsidies.
- Second Harvest – Monthly food distributions provide free food to needy families and so contribute a broad community benefit. The coordination and operation of the program is through the Onetta Harris Center staff with volunteers assisting with the distribution of food, to keep costs as low as possible.
- Events/Celebrations – Community Services events provide opportunities for neighborhoods to come together as a community and integrate people of various ages, economic and cultural backgrounds. Events also foster pride in the community and provide opportunities for volunteers to give back. As such, the benefits are community-wide. In addition, collection of fees are not always cost effective.

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- Facility Usage – Safe and secure facilities for neighborhood problem-solving and provision of other general services support an engaged community and should be encouraged with low or no fees.
- Fee Assisted Recreation Programs – Activities with fee assistance or sliding scales make the programs affordable to all economic levels in the community. Organized activities, classes, and drop-in programs are designed to encourage active living, teach essential life and safety skills and promote life-long learning for broad community benefit.

Medium Recovery Expectation – recovery of most program costs incurred in the delivery of the service, but without recovery of any of the costs which would have been incurred by the department without the service. Both community and individuals benefit from these services. Non-resident fees if allowed may provide high cost recovery.

- Belle Haven School Age – Title 22 - Licensed Child Care Program – Services to participants in this program are not readily available elsewhere in the community at low cost. The program provides broad community benefit in the form of a safety net for children in the community. Organized activities and programs teach basic skills, constructive use of time, boundaries and expectations, commitment to learning and social competency. Resident fees charged based on San Mateo County Pilot program for full day care that sets fees at no more than 10% of the family's gross income.
- Preschool Title 5 – The Preschool Program is supported primarily by reimbursement of federal and state grants for low income children. Tuition and reimbursement rates are regulatory.
- Senior Lunches – Congregate Nutrition is classified as a medium cost recovery fee as it asks a donation coupled with a per meal reimbursement from OAA & State funds.
- Belle Haven School Community School – The Community School partners with various non-profit and community-based agencies to provide much needed services to the community – high quality instruction, youth enrichment services, after-school programs, early learning and a family center. Services are open to Belle Haven students, their families and residents of the surrounding neighborhood.
- Field Rentals and Tennis Courts – Costs should be kept low for local non-profit organizations providing sports leagues open to residents and children in the Menlo Park Schools that encourage healthy lifestyles and lifelong fitness. Opportunities exist to collect a reasonable fee for use to defray citywide expenses for tennis facilities and fields.
- Programs – Drop-in programs can be accessed by the widest cross section of the population and therefore have the potential for broad-base participation. Recreation drop-in programs have minimal supervision while providing healthy outlets for youth, teens and adults

High Recovery Expectations – present when user fees charged are sufficient to support direct program costs plus up to 100% of department administration and city overhead associated with the activity. Individual benefit foremost and minimal community benefit exists. Activities promote the full utilization of parks and recreation facilities.

- Menlo Children's Center School Age and Pre-school – Title 22 – Participation benefits the individual user.
- Picnic Areas – Picnic rental reservations benefit the individual but help defray the cost of maintaining parks benefiting the entire community.
- Facility Usage – Facility use is set at a higher rate for the private use of the public facility for meetings, parties, and programs charging fees for services and celebrations.

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- Programs – Activities in this area benefit the individual user. Programs, classes, and sports leagues are often offered to keep pace with current recreational trends and provide the opportunity to learn new skills, improve health, and develop social competency. The services are made available to maximize the use of the facilities, increase the variety of offerings to the community as a whole and spread department administration and city-wide overhead costs to many activities. In some instances offering these activities helps defray expenses of services with no viable means of collecting revenue e.g. parks, playgrounds, etc.
- Contracted Venues – (for profit) – Long term arrangements where a facility is rented or contracted out to reduce general funding expense in order to provide specialized services to residents.

Development Review Services

1. Planning (planned development permits, tentative tract and parcel maps, re-zonings, general plan amendments, variances, use permits)
2. Building and safety (building permits, structural plan checks, inspections)

Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
	1. Planning			
24	Appeals of Staff Decisions	X		
24	Appeals of Planning Commission Decisions by Residents	X		
	Subsequent Appeals			X
24	Temporary Sign Permits	X		
23	Use Permits – Non-Profits	X		
24	Administrative Reviews – Fences		X	
	Appeals of Planning Commission Decisions by			X
24	Non-Residents			X
23	Administrative Reviews – Other			X
23	Architectural Control			X
23	Development Permits			X
23	Environmental Reviews			X
23	General Plan Amendments			X
24	Tentative Maps			X
24	Miscellaneous – not listed elsewhere			X
	Reviews by Community Development			X
24	Director or Planning Commission			X
23	Special Events Permitting			X
23	Study Sessions			X
24	Zoning Compliance Letters			X
23	Signs and Awnings			X
23	Use Permits – other			X
23	Variances			X
23	Zoning Map			X
	Ordinance Amendments			X

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Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
28-48	<u>2. Building and safety</u> Solar installations Building Permits Mechanical Permits Electrical Permits Plumbing Permit Consultant Review	X		X X X X X

Low Recovery Expectations: Low to zero recovery is expected for services in this category to maintain open and accessible government processes for the public, encourage environmental sustainability and encourage compliance with regulatory requirements. Example of Low Recovery items:

- Planning – The fees for applicants who wish to appeal a Staff Decision or for a Menlo Park resident or neighbor from an immediately adjacent jurisdiction who wishes to appeal a decision of the Planning Commission is purposefully low to allow for accessibility to government processes.
- Planning – Temporary sign permit fees are low so as to encourage compliance.
- Building – The elimination or reduction of building permits for solar array installations is consistent with California Government Code Section 65850.5, which calls on local agencies to encourage the installation of solar energy systems by removing obstacles to, and minimizing costs of, permitting for such systems.

Mid-level Recovery Expectations: Recovery in the range of 30% to 70% of the costs incurred in the delivery of the service reflects the private benefit that is received while not discouraging compliance with the regulation requirements.

- Planning – Administrative permits for fences that exceed the height requirements along Santa Cruz Avenue are set at mid-level to encourage compliance.

High Recovery Expectations: Cost recovery for most development review services should generally be high. In most instances, the City's cost recovery goal should be 100%.

- Planning – Subsequent Appeals - The fees for applicants who are dissatisfied with the results of a previous appeal of an administrative permit or a decision of the Planning Commission should be at 100% cost recovery.
- Planning – Most of the Planning fees charged are based on a "time and materials" basis, with the applicant/customer being billed for staff time (at a rate that includes overhead cost allocations) and the cost of actual materials or external services utilized in the delivery of the service.
- Building – Building fees use a cost-basis, not a valuation basis, and are flat fees based on the size and quantities of the project.

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Public Works Department - Engineering, Transportation, and Maintenance

1. Engineering and Transportation (public improvement plan checks, inspections, subdivision requirements, encroachments)
2. Transportation (red curb installation, truck route permits, traffic signal repairs from accidents)
3. Maintenance (street barricades, banners, trees, special event set-up, damaged city property)

Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
	<u>1. Engineering</u>			
25	Heritage Tree	X		
25	Appeals to Environmental Quality Commission and City Council	X		
	Bid Packages	X		
19	Plotter Prints		X	
19	Encroachment Permits for			
19	City-mandated repair work (non-temporary)		X	
25	Heritage Tree		X	
	Tree Removal Permits 1 – 3 trees			
19	City Standard Details		X	
20	Improvement Plan Review			X
20	Plan revisions			X
21	Construction Inspection			X
20	Maps / Subdivisions			X
	Real Property			X
19	Abandonments			X
19	Annexations			X
21	Certificates of Compliance			X
20	Easement Dedications			X
20	Lot Line Adjust/Merger			X
19	Encroachment Permits			X
19	Completion Bond			X
	Processing Fee			X
25	Heritage Tree Permits			X
	After first 3 trees			X
16	Downtown Parking Permits			X
	<u>2. Transportation</u>			
22	Red Curb Installation	X		
22	Truck Route Permits	X		
22	Traffic Signal Accident			X
22	Aerial Photos			X

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Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
	<u>3. Maintenance</u>			
22	Tree Planting	X		
22	Banners – Santa Cruz Ave			X
22	Barricade replacement			X
22	Weed Abatement			X
22	Special Event set-up – for profit use			X
22	Special Event set-up- for non-profits use		X	
22	Damaged City property			X

Low Recovery Expectations: Low to zero recovery is expected for services in this category as the community benefits from the service. In general, low cost services in this group provide a community-wide benefit. These services generally are intended to enhance or maintain the livability of the community and therefore require the removal of a cost barrier to encourage use. However, in some instances the maximum fee that can be charged is regulated at the State or Federal level and therefore the City fee is not determined by City costs (truck route permits, copies of documents). Examples of Low Recovery items:

- Maintenance – Tree Plantings is classified as a low cost recovery fee to replacement of trees removed due to poor health and to encourage new tree plantings.
- Transportation – Red Curb Installation is classified as a low cost recovery fee for support traffic/parking mitigation requests to address safety concerns of residents and businesses.
- Transportation – Truck Route Permits Fees – maximum fee set by State Law.
- Engineering – Heritage Tree Appeals is classified as a low cost recovery fee to insure that legitimate grievances are not suppressed by high fees.
- Engineering – Bid Packages are provided at a low cost to encourage bid submissions thereby insuring that the City receives sufficient bids to obtain the best value for the project to be undertaken.

Medium Recovery Expectations: Recovery in the range of 30% to 70% of the costs incurred in the delivery of the service. Typically both the community and individuals benefit from these services.

- Engineering – Encroachment Permits for City-mandated repairs are classified as a medium cost recovery. Since the property owner is paying for the cost of construction but is required by ordinance to perform it promptly, a discounted fee for the permit is appropriate.

High Recovery Expectations: Recovery in the range of 70% to 100% when user fees charged are sufficient to fully recover costs of providing the service. Individual benefit is foremost and minimal community benefit exists. Most services provided by the Public Works Department fall in this area.

- Engineering – Encroachment Permits where the public right of way is used or impacted on a temporary or permanent basis for the benefit of the permittee. Debris Boxes are such an example.
- Transportation – Traffic Signal Accident repair cost is the responsibility of the driver/insurer.
- Maintenance – Weed Abatement performed by Public Works staff to address ongoing code violation.
- Maintenance – Banners on Santa Cruz Avenue and El Camino Real.

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Public Safety – Police Services (Case Copies, False Alarms, Parking Permits, Abatements, Emergency Response, Background Investigations, Tow Contract)

Master Fee Schedule Page #'s	General categorization of programs, Services, Activity, and facilities	Low cost recovery (0-30%)	Mid cost recovery (30-70%)	High cost recovery (70-100%)
14	Case Copies	X		
15	Citation Sign Off - Residents	X		
1, 15	Document Copies	X		
14	Bicycle Licenses	X		
16	Overnight Parking Permits			X
16	Residential Parking Permits	X		
15	Property Inspection – Code Enforcement	X		
15	Real Estate Sign Retrieval	X		
14	False Alarm – Low Risk		X	
15	Rotation Tow Service Contract		X	
15	Repossession Fee		X	
14	False Alarm – High Risk			X
14	Good Conduct Letter			X
14	Preparation Fees			X
14	Research Fee			X
14	Civil Subpoena Appearance			X
14	Finger Printing Documents			X
15	Background Investigations			X
14	Notary Services			X
14	Vehicle Releases			X
14	DUI - Emergency Response			X
15	Intoximeter Rental			X
15	Street Closure			X
15	Unruly Gatherings			X
18	Abatements			X

Low Recovery Expectations: Low to zero recovery is expected for services in this category as the community generally benefits from the regulation of the activity. The regulation of these activities is intended to enhance or maintain the livability of the community. However, in some instances the maximum fee that can be charged is regulated at the State or Federal level and therefore the City fee is not determined by City costs (copies of documents).

Medium Recovery Expectation: Recovery in the range of 30% to 70% of the costs of providing the service. Both community and individuals benefit from these services.

- False Alarm – primarily residential and low cash volume retail. Alarm response provide a disincentive to crime activity. However excessive false alarms negatively impact the ability of prompt police response to legitimate alarms.

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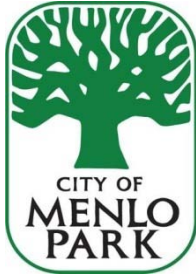
Public Safety – Police Services - continued

High Recovery Expectations: Recovery in the range of 70% to 100% when user fees charged are sufficient to recover costs of the service provided. Individual benefit is foremost and minimal community benefit exists. Items such as False Alarm, DUI Emergency Response, Vehicle Releases, Unruly Gathering, and Abatements are punitive in nature and the costs should not be funded by the community. Items such as Good Conduct Letter, Preparation Fees, Research Fee, Finger Printing, Background Investigations, and Notary Service primarily benefit the individual. 100% of the cost for services in these areas is typical.

- Overnight Parking Permits – the fee charged for One Night Parking Permits fall into Low Cost Recovery, however when combined with the fees collected from the issuance of Annual Permits the result is the program should achieve High Cost Recovery.
- Street Closure – primarily residential for activities within a defined area. This service is provide for public safety and therefore is provided at a rate below 100% cost recovery.

Library (Library Cards, Overdue Fines, etc.) – fees are primarily established by the Peninsula Library Service.

Administrative Services (Copying Charges, Postage, etc.) – fees are primarily set by regulations and are generally high cost recovery of pass-thru charges.



ADMINISTRATIVE SERVICES

Council Meeting Date: March 27, 2012
Staff Report #: 12-047

Agenda Item #: F-1

REGULAR BUSINESS: **Adopt a Resolution Approving a Memorandum of Understanding (MOU) Between the City of Menlo Park and Service Employees International Union, Local 521 (SEIU) for the Period Beginning March 25, 2012 through October 31, 2013**

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution approving a Memorandum of Understanding (MOU) between the City of Menlo Park and the Service Employees International Union, Local 521 (SEIU), for the period beginning March 25, 2012 through October 31, 2013.

BACKGROUND

The SEIU bargaining unit consists of one hundred forty non-sworn, non-supervisory positions throughout the City. The most recent MOU with this unit expired on October 24, 2009. Negotiations with this unit reached impasse and ultimately resulted in the City Council implementing the City's last, best and final offer on May 4, 2010. Impasse does not equate to agreement, however, and, while the City is able to implement the provisions contained in its last, best and final offer, the parties remain at impasse until such time as one of the parties steps forward and presents a new proposal in an attempt to reach agreement and resolve the impasse.

In December 2010, SEIU requested a meeting to present such a proposal and a meeting was scheduled for January 2011, however, SEIU cancelled the meeting. In October 2011, SEIU again requested a meeting to discuss the recently negotiated and approved AFSCME agreement. On November 29, 2011, SEIU once again met with City representatives and presented a proposal in an attempt to resolve the impasse.

Staff brought the SEIU proposal before Council in closed session for consideration on December 13, 2011, January 10, 2012, February 14, 2012 and March 6, 2012. Council provided direction and authority, and staff met with SEIU on Monday, March 12, 2012. At that meeting, the parties reached a tentative agreement and the proposal will be presented to the SEIU membership prior to the March 27, 2012 Council meeting. This staff report has been prepared in accordance with Council policy requiring publication in

advance and assumes that SEIU will ratify the tentative agreement. Should the tentative agreement not be ratified, staff will ask for a continuance.

ANALYSIS

Summary of Tentative Agreement

Following is a list of all items contained in the tentative agreement, along with a reference to the attachment containing the contract language.

- Term: An agreement, beginning March 25, 2012 through October 31, 2013, for a period of approximately nineteen months (page 58).
- Incorporation of all modification of terms contained in Resolution 5926, adopted May 4, 2010, imposing the City's last, best and final offer to SEIU local 521, except for Section 8 involving City cafeteria contributions, which is contained as a separate bullet point in this list. The other terms are listed as follows:
 - 1. All initial probationary periods shall be twelve (12) months. All promotional probationary periods shall be six (6) months. The Personnel Officer maintains the authority to extend probationary periods for up to six months (page 11).
 - 2. The City may continue to release individual salary and benefit information and other information deemed to be a public record that may be disclosed under the Public Records Act (page 15).
 - 3. There will be no reclassifications during the term of this agreement (page 16).
 - 4. There shall be no adjustment to the salary schedule (during the term of this agreement) (page 17).
 - 5. All merit advancements between steps will occur on an annual basis (page 17).
 - 6. Aggregation of rest periods may not be approved by the Personnel Officer and may not be used to shorten the work day (page 23).
 - 7. The award for non-use of sick leave is eliminated. Workers hired into the bargaining unit after May 4, 2010 will not be eligible for compensation for accumulated sick leave upon separation (pages 30 - 31).
 - 8. Automatic escalators to City cafeteria contributions contained in prior contracts are eliminated in favor of a fixed contribution (pages 40 – 41).

In addition, employees hired after May 4, 2010 will not qualify for retiree medical reimbursement pursuant to Section 13.1.8 of the expired MOU (page 41).

- 9. Beginning with fiscal year 2011-12, should the employer rate rise above 14.597%, the increase shall be shared equally between the employee and the employer. Retirement benefits for new employees (hired after February 12, 2012) shall be those established by the Public Employees' Retirement System (CalPERS) for local miscellaneous members, 2.0% at age 60 formula, highest three years (page 45).
- 10. The City Council may require up to twenty-one (21) unpaid furlough hours in each fiscal year. Furloughs for employees who work less than full-time or less than a full year shall be prorated on the basis of hours worked as compared to full time employment. The furloughs shall be implemented in a fair and equitable manner and with sufficient flexibility to accommodate different operational needs which, in turn, may aid in minimizing the impact on employees.

The dates and times to be observed as unpaid furlough time will be established by the affected employee's department head or his or her designee after providing the employee an opportunity to express his or her preferences.

The City may grant employee requests for additional unpaid furlough hours (pages 57-58).

- Cafeteria (Health) Benefit Contribution: Increases the fixed City contribution to cafeteria health benefits to the same contribution rate provided AFSCME (middle management), POA (police officers) and PSA (Police sergeants) employees:

From \$1,427.48 to \$1,681.50 per month for family coverage
From \$1,101.14 to \$1,296.55 per month for two party coverage
From \$550.57 to \$648.26 per month for single coverage

The no coverage option remains at \$186.88 per month. The last, best and final offer contained the lower amounts shown above. The adjustment will commence with the pay period beginning March 25, 2012, and there is no retroactivity associated with this item (page 40).

- Dental Contribution: The unit also requested an increase from \$120.00 to \$140.00 per month toward the City's self insured dental fund, and to increase the caps on coverage from \$2,800 per year employee, \$1,400 per year for each dependent, to \$3,000 per year employee and \$1,500 per year for each dependent. The estimated increased cost is \$8,400 for the remainder of fiscal year 2011-12, and \$34,600 for fiscal year 2012-13 (pages 42 - 43).

- Dispatch Observance of Independence Day and Veteran's Day on the Holiday: Dispatchers requested that the observation of Independence Day and Veteran's Day occur on the actual date rather than observed date listed for those who work a normal Monday through Friday work week (page 26).

Items Not Contained in the Recommended Agreement

The items listed above do not contain all items requested by SEIU as part of their offer to resolve the impasse. Items that are not part of the recommended agreement are:

- A request to raise the threshold at which the 50/50 cost sharing of the employer contribution to CalPERS triggers from 14.597% to 15.850%, the same rate as paid by AFSCME and Executive Management. In 2012-13, this unit will pay 1.112% as a post tax employee deduction toward the employer share while other units will pay 0.486% toward the employer share. This calculation is based upon a miscellaneous employer rate for 2012-13 of 16.821% assigned by CalPERS.
- A request to eliminate the moratorium on reclassification requests and allow them to be arbitrated if there is disagreement on the results.
- A request to eliminate the furlough language contained in the implementation resolution.

Cost Containment Strategies Regarding Employee Compensation

When crafting agreements, the City has consistently rejected proposals that reduce management control in providing service, specifying minimum staffing levels, or providing automatic escalators in relation to comparison cities. Provisions such as these minimize or eliminate the City's ability to control costs when needed. Based on that premise, there are no such provisions in any of our labor agreements.

The City has been focused on achieving savings and mitigating future costs in the four major cost areas of employee compensation: salary, cafeteria health premium contributions, pension obligations and retiree medical. All recent contracts or implementations have incorporated containment strategies in these areas while minimizing the impact on the organization and the ability to recruit quality staff.

Non-safety employees have not received a unit wide salary adjustment since 2008 and will not receive any at least through the term of their contract (October 2013). POA and PSA contracts also do not contain salary adjustments through June of 2013.

Cafeteria health contributions are now specified and automatic escalators have been eliminated from all contracts.

Newly hired employees in both safety and non-safety groups belong to a second lower tier retirement system.

The retiree health credit system that allowed sick leave accrued during employment to be used to purchase health insurance in retirement has been eliminated for newly hired employees. Reward for non-use of sick leave has been eliminated for all employees.

Collectively, these strategies will result in significant cost savings in future years, particularly in the area of retirement and post employment health benefits.

City Contribution to Cafeteria Benefits (Health Premiums) for Active Employees

Health insurance premiums continue to increase on an annual basis. While historical increases have run approximately 7-8%, the increase for 2012 was approximately 5%. The rates for 2013 are not yet known. The implementation with SEIU froze the City contribution for cafeteria benefits at 2009 levels.

The amounts proposed are identical to the amounts provided the Police Officer's Association, the Police Sergeant's Association and AFSCME middle management groups. The monthly amounts are detailed in the table below:

Health Coverage Selected	Current SEIU Employer Contribution	New Employer Contribution 1/1/12 through 10/31/13
No-coverage	186.88	186.88
Single Coverage	550.87	648.26
Two-party Coverage	1,101.14	1,296.55
Family Coverage	1,427.48	1,681.50

The 2012 monthly rates for health coverage are detailed in the table below:

Coverage	PERS Select	PERS Choice	Kaiser	Blue Shield Net Value	Blue Shield	PERS Care
Single	487.39	574.15	610.44	611.59	711.10	1,029.23
Two-party	974.78	1,148.30	1,220.88	1,223.18	1,422.20	2,058.46
Family	1,267.21	1,492.79	1,587.14	1,590.13	1,848.86	2,676.00

The increase for fiscal year 2011-12 over current costs is estimated to be \$76,000 (March 25, 2012 – June 2012). The 2012-13 increase over current costs is estimated to be \$302,000 (July 2012 – June 2013).

Premiums adjust on a calendar year basis. If there is excess money available after contributing to the health insurance premium, it can be used for other benefits or taken in cash. If the premium exceeds the contribution level, the employee must make up the difference. There is no provision for an increase to the City's cafeteria contribution for 2013 even though health premiums are expected to rise.

Agreement

Having an agreement with this bargaining unit meets our legal obligations regarding the meet and confer process, creates certainty regarding the negotiations schedule, improves employee morale, and eliminates exposure to changes in State Law that extends the timeframe and expense associated with imposed contracts.

IMPACT ON CITY RESOURCES

The annual cost of salary and benefits for this unit is \$12,043,000. The additional cost for the remainder of the fiscal year due to the proposed agreement is estimated at \$84,400. This increase will be absorbed within the department budgets and no budget adjustment is requested at this time. The annualized increased cost of \$336,600 will be incorporated into the 2012-13 operating budget, as well as the ten year projection.

POLICY ISSUES

This recommendation represents a balanced approach to restructuring employee benefits while remaining competitive in recruiting and retaining well-trained, professional employees.

ENVIRONMENTAL REVIEW

No environmental review is required.

Glen H. Kramer
Interim Personnel Director
Report Author

PUBLIC NOTICE: Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

ATTACHMENT: A. [2012-13 Contract with Highlights and Strike Outs](#)
B. [Resolution](#)

PREAMBLE

This Memorandum of Understanding is entered into by and between ~~Local 715, Service Employees International Union, AFL-CIO~~ **Service Employees' International Union, Local 521, CTW, CLC** (hereinafter "Union") and the City of Menlo Park (hereinafter "City"). This Memorandum of Understanding is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500-3510) and has been jointly prepared by the parties.

ARTICLE 1: RECOGNITION

- 1.1 The Union is recognized as the exclusive representative of the classifications for City workers as listed in Appendix "A" to this Agreement. Nothing herein shall be construed to discriminate against any individual who chooses to exercise his/her right of self-representation under Section 3502 of the Government Code.
- 1.2 Whenever, during the term of this Agreement, a worker is hired or reclassified to a position not contained in Appendix "A" and not contained in any other bargaining unit, his/her eligibility for inclusion in the bargaining unit shall be governed by the satisfaction of any of the following criteria:

The meet and confer process shall be used to determine whether newly created positions shall be in the bargaining unit.

- 1.2.1 The worker is hired as an employee on a full-time basis of twelve (12) months or more.
- 1.2.2 The worker is employed on a permanent part-time basis and works an average greater than or equal to twenty (20) hours per week, six (6) months or more out of twelve (12) months.
- 1.2.3 The worker is not classified as a permanent part-time employee, but works at least twenty (20) hours per week for an average of twelve (12) months.
- 1.2.4 The worker is a provisional employee.
- 1.2.5 Successive contracts with same worker shall be totaled in order to determine the applicable twelve (12) or six (6) months period.

- 1.2.6 When a position is filled by successive contracts with different workers, but otherwise meets the criteria for inclusion in an SEIU bargaining unit as defined by this Article, the position shall be included in the bargaining unit.
- 1.3 Section 1.2 shall not apply to any person who is an independent contractor.
- 1.4 The following groups of workers are not eligible for representation by this bargaining unit:
 - 1.4.1 All police and police management classifications which are contained in other bargaining units;
 - 1.4.2 Members of the Management Team who are not subject to merit system employment procedures or protection;
 - 1.4.3 Supervisory classifications where the worker supervises one or more permanent positions and signs job evaluations;
 - 1.4.4 Seasonal and part-time workers who work less than twenty (20) hours per week and/or whose duration of employment is less than twelve (12) months;
 - 1.4.5 Independent contractors;
 - 1.4.6 Student interns who carry a course load of twelve semester units or more during the regular school year;
 - 1.4.7 Graduate students who, as part of an accredited program lasting up to two years, are engaged in a cooperative work program.
- 1.5 On a monthly basis the City shall provide the Union with a listing of all temporary workers on the City payroll. Such listing shall include each temporary worker's department, rate of pay, classification, number of hours worked during the month, and cumulative hours worked.
- 1.6 The City shall notify the Union whenever it establishes a new non-bargaining unit classification which impacts negotiable terms or conditions of employment for bargaining unit workers. Upon request by the Union, the City shall meet and confer over the negotiable effects of its decision to create the new classification.

ARTICLE 2: UNION SECURITY

(Note: Sections 2.1 through 2.5 were previously modified by Side Letter 2001-1, dated January 18, 2001)

2.1 Agency Shop

2.1.1 Duty of Fair Representation. The Union has the duty to provide fair and non-discriminatory representation to all workers covered by this Memorandum of Understanding, regardless of whether they are members of the Union.

2.1.2 Implementation. Effective March 11, 2001, all unit members, as a condition of initial and continued employment, for the duration of this Agreement, shall either (a) become a member of the Union, or (b) pay a service fee to the Union in lieu of membership, or (c) claim religious exemption as a member of a bona fide religion, body or sect that has historically held conscientious objections to joining or financially supporting public employee organizations, as provided in Section 3502.5(c) of the Government Code.

When a person is hired in any of the covered job classifications, the City shall notify that person that the Union is the recognized bargaining representative for the worker's representation unit, that the Union and the City have entered into an Agency shop agreement requiring payment listed above as a condition of employment, provide an enrollment card (furnished by the Union) and give the worker a current copy of the Memorandum of Understanding.

Workers shall be free to become a member of the Union or to refrain from becoming a member of the Union. Workers who voluntarily become Union members shall maintain their membership in the Union for the duration of this Memorandum of Understanding, provided, however, that workers may resign Union membership during the first five business days of September of any year, by notifying the Union and the Personnel Division in writing by registered mail, postmarked within the withdrawal period.

If an individual employee becomes delinquent in paying fees required under this Section due to a clerical error or the fact that the employee was not paid by the City during the pay period, the City shall not be responsible for paying such fees. However, once the City has been notified of the error, the City will make the correction within that pay period. In cases where a worker is not paid for a portion of the pay period and their salary is insufficient to cover part or all of the withholding of union dues or service fees, or their statutory withholding obligations exceed the withholding of union

dues or service fees, there shall be no withholding. All legal, statutory and required deductions shall have priority over fees.

Each regular pay period, the City shall provide the Union with a list of the names, addresses, classifications, and membership status of all unit workers except those who file written notice with the Personnel Division objecting to the release of addresses, in which case information will be transmitted without address. Once a month, the City shall supply the Union with a list of representation unit new hires, terminations and retirements that occurred during the previous month.

The Union shall indemnify and hold the City, its officers and employees, harmless from any and all claims of any nature whatsoever, and against any claim or suit instituted against or involving the City arising from the execution of the City's obligations contained in this Article or from the use of the monies remitted to the Union, including the costs of defending against such actions or claims.

- 2.1.3 Dues Deduction. The City will deduct Union membership dues, agency fees, insurance fees, and any other mutually agreed upon payroll deduction from the biweekly pay of the worker, effective with the first pay period the worker is employed, subject to the provisions contained in Section 2.1.2. The worker must authorize deduction of membership dues in writing on an enrollment card acceptable to the City and the Union. In cases where an enrollment card has not been returned, the mandatory service fee shall be deducted from the biweekly pay of the worker. The City shall remit the deducted dues and other fees to the Union as soon as possible after deduction. The membership status report and dues deduction report shall be electronically transmitted to the Union via e-mail or other mutually agreeable method.

In cases where, for whatever reason, (e.g., the City being enjoined from collecting dues or service fees), a worker is delinquent in the payment of such dues or service fees, the Union shall utilize the judicial process to compel payment.

- 2.1.4 Establishment of Service Fee. The Union shall demonstrate to the City that it has complied with applicable law by (a) having disseminated to the bargaining unit adequate information about its expenditures for the preceding fiscal year, including information regarding its "chargeable" and "nonchargeable" activities in the prior fiscal year, broken down in adequate and reasonable detail between the chargeable and nonchargeable activities; (b) having established a full, fair and prompt procedure whereby objecting nonmembers are

able to challenge allegedly objectionable expenditures; and (c) having established a procedure for escrowing the amount reasonably in dispute in connection with any challenge by an objecting non-member. The Union shall demonstrate its compliance with this Section before implementation of agency shop provisions, and on an annual basis thereafter.

- 2.1.5 Religious Exemption. Any worker occupying a position covered by this Memorandum of Understanding, who is a member of a bona fide religion, body or sect that has historically held conscientious objections to joining or financially supporting a public employee organization will, upon presentation of a written declaration to the Union and the City of active membership, notarized by an official representative of such religion, body or sect, be permitted to make a charitable contribution to one of the charities available through payroll deduction, equal to the service fee in lieu of Union membership or service fee payment.

The Union will have thirty days after receipt of a declaration of religious exemption to challenge any exemption that the City grants. If challenged, the deduction to the charity of the employee's choice will commence but will be held in escrow pending resolution of the challenge. Charitable contributions will be by regular payroll deduction only. For purposes of this Section, charitable deduction means a contribution to a non-religious, non-labor charitable organization available through the City's United Way or Combined Health Agencies payroll deduction slot, exempt from taxation under Section 501 of the IRS Code.

- 2.1.6 Financial Reports. The Union shall comply with Government Code §3502.5(d), which addresses the financial reporting requirements to agencies with negotiated agency shop provisions.

- 2.2 Except in cases of emergency, the Union shall be informed sufficiently in advance in writing by Management before any proposed changes not covered by this Memorandum of Understanding are made in benefits, working conditions, or other terms and conditions of employment which require the meet and confer or meet and consult process.
- 2.3 C.O.P.E. Checkoff. All workers who choose to do so may request an additional deduction from their paychecks to be forwarded to the Union and accounted for in a separate notation. Such additional deduction shall be used for political campaign purposes and shall be totally voluntary. The C.O.P.E. checkoff report shall be electronically transmitted to the Union via e-mail or other mutually agreeable method.

2.4 Bulletin Boards. The City shall furnish and maintain bulletin board space for use by the Union of a size and location mutually agreeable to the City and the Union. The bulletin board space provided shall be clearly identified as Union bulletin board space. The board may be used for the following subjects:

- (a) Information on Union elections, reports, newsletters and notices;
- (b) Reports of official business of the Union, including reports of committees or the governing boards thereof;
- (c) Scheduled membership benefits, programs and promotions;
- (d) Any other written material pertaining to the official business of the Union, the Santa Clara County or San Mateo County Central Labor Council or the Committee on Political Education (COPE).

ARTICLE 3: REPRESENTATION

3.1 It is agreed that, as long as there is no disruption of work, five (5) Union representatives shall be allowed reasonable release time away from their work duties, without loss of pay, to act in representing a unit worker or workers on grievances or matters requiring representation. The Union shall designate the five (5) representatives under this section. The Union shall notify the City in writing of the names of the officers and representatives. Upon request, the City may approve release time for other bargaining unit members to represent a unit worker or workers under this Section. Only one (1) representative shall be entitled to release time under this section for any one (1) grievance or group of related grievances. Subject to the provisions of Section 3.2, release time shall be granted for the following types of activities:

3.1.1 A meeting of the representative and a worker or workers in the unit related to a grievance.

3.1.2 A meeting with Management

3.2 The Union agrees that the representative shall give advance notification to his/her supervisor before leaving the work location except in those cases involving emergencies where advance notice cannot be given. Release time is subject to the legitimate scheduling needs of the department.

3.3 Seven (7) Union representatives who are City employees shall be allowed a reasonable amount of time off without loss of pay for formal negotiation purposes. Preparation time for negotiations shall not be on release time without approval of the Personnel Officer.

- 3.4 Nine (9) Union representatives shall be allocated up to one (1) hour per month time off without loss of pay for purposes of meeting and consulting on matters within the scope of representation, other than formal negotiations. Workers shall normally be allowed to adjust their lunch period adjacent to this time.

ARTICLE 4: DEFINITIONS

4.1 Definitions

- 4.1.1 A “temporary” or “contract” employee is a worker employed for a definite term of up to six months, although such temporary employee may be held over for up to three (3) additional months when the temporary employee is filling a vacancy created by leave without pay and the leave is extended beyond the initial fixed period.

A student intern may also be considered a temporary employee, provided he/she is not otherwise eligible for inclusion in the bargaining unit under the criteria listed in Article 1.

Recreation leaders and other recreation workers who commonly perform work at a level below a Recreation Supervisor may remain temporarily employed indefinitely. A temporary employee is not eligible for benefits provided in this agreement.

- 4.1.2 A “provisional” employee is a worker employed for a definite term of more than six (6) months, although such provisional employee may be held over beyond the initial term of employment as specified in Section 12.4.1. A provisional employee shall be employed and treated in all respects for the entire term of employment as a provisional employee, the same as a probationary employee.
- 4.1.3 A “probationary” employee is a worker who has not yet completed the probationary period, or any extension(s) thereof, as provided in this Agreement. A probationary employee is eligible for benefits provided in this Agreement, except as limited by Sections 6.1.5 and 6.1.8 of this Agreement.
- 4.1.4 A “permanent” employee is a worker who has satisfactorily completed the probationary period, or any extension(s) thereof. A permanent employee is eligible for benefits provided in this Agreement.

ARTICLE 5: LAYOFF AND RE-EMPLOYMENT

5.1 Layoff

- 5.1.1 Whenever in the judgment of the City Council it becomes necessary in the interests of economy or because the position no longer exists, the City Council may abolish any position or employment in the competitive service, or may reduce the hours of any position. The decision to abolish a position or reduce the hours of any position shall not be subject to the grievance procedure contained in this Agreement.
- 5.1.2 It is agreed between the parties that attrition is the preferred method of accomplishing any necessary reduction in the work force.
- 5.1.3 If a permanent reduction of hours is proposed for a particular classified position, the incumbent has the right to exercise any and all of the rights set forth in this Article. The incumbent may also choose to be laid off and receive the benefits contained in this article.

5.2 Notification of Layoff

- 5.2.1 Workers being laid off shall be given written notice from the City's Personnel Officer at least forty-five (45) calendar days prior to the effective dates of layoff. The layoff notice shall contain a statement of the effective date of layoff, a statement of "bumping rights" including the specific positions into which the worker may bump, and a statement of re-employment rights. Notice of layoff shall be given by personal service and the worker shall sign an acknowledgment of personal service; or by certified mail, return receipt, postage prepaid. The Union shall receive concurrent notice of individual layoff notices.
- 5.2.2 Upon request, the Union shall be afforded an opportunity to meet with the City to discuss the circumstances requiring the layoff and any proposed alternatives.

5.3 Seniority

- 5.3.1 For the limited purposes of this Article 5, "length of service" means all hours in paid status including holiday, vacation, and paid leave, but does not include any hours compensated for overtime or standby, military leave, unpaid illness, unpaid industrial accident leave, or hours served as a temporary or contract employee in classifications other than the classification in which the worker is being laid off.

5.3.2 In the event a worker reverts to a previously held classification, seniority shall include all time accrued previously in the lower classification, as well as all time accrued in the higher classification.

5.3.3 No seniority credit shall be earned during periods of separation from service with the City, including suspension without pay as a result of disciplinary action.

5.4 Order of Layoff

5.4.1 All temporary employees in a particular classification will be laid off before any provisional, probationary or permanent employee in the classification.

5.4.2 All provisional employees in a particular classification will be laid off before any probationary or permanent employee in the classification.

5.4.3 All probationary employees in a particular classification will be laid off before any permanent employee in the classification.

5.5 Layoff Procedures

5.5.1 Except as otherwise provided, layoffs will be made in reverse order of seniority. The workers with the least time served in a classification shall be laid off first, with ensuing layoffs occurring in reverse order of length of service in the classification. If two workers have served the same time in the classification, then as between those two workers, the layoff will be based on total time of service with the City. If total time of service with the City is the same, then, as between those two workers, the layoff will be determined by a lottery.

5.6 Bumping Rights

5.6.1 A permanent employee who is designated for layoff, including a worker on probation following reclassification, transfer, or promotion from a permanent position, may elect, in lieu of layoff, to be reassigned to a position in a lateral or lower related classification within his/her department, or another department, provided that in order to displace the worker with less service the laid off worker must have held permanent status in the classification into which he/she is bumping.

- 5.6.2 When a senior employee chooses to bump into a position in a lateral or lower, related classification, said worker must accept the salary, hours, and working conditions of the position to which return is requested.
- 5.6.3 A bargaining unit worker requesting to bump into a classification as provided herein, must make such request to the Personnel Officer in writing within seven (7) calendar days of his/her receipt of written notice of layoff. Failure to comply with the deadline provided herein shall be deemed a waiver of the bumping rights provided in this Section 5.6.
- 5.6.4 Nothing herein shall preclude bumping between AFSCME and this bargaining unit.

5.7 Re-employment

- 5.7.1 The names of workers laid off shall be placed on a re-employment list in inverse order of seniority for a period of two (2) years from the date of layoff. The worker with the greatest seniority on the re-employment list shall be offered reinstatement when a vacancy occurs in a classification in which the worker held permanent status.
- 5.7.2 A laid off worker may refuse an offer of re-employment to a position for which he/she is qualified, however, refusal of two (2) offers of re-employment to the classification from which laid off shall automatically cause removal of the worker's name from the re-employment list and loss of any re-employment rights.
- 5.7.3 Any worker who accepts an offer of re-employment shall have his/her name removed from the re-employment list.
- 5.7.4 A worker who has been laid off and has been placed on a re-employment list shall be eligible, during the time the worker is on the re-employment list, to take promotional exams.
- 5.7.5 Offers of re-employment shall be made via the U.S. Mail Service, Certified Return Receipt, and shall include the specific position and/or hours being offered, the rate of pay, level of benefits, a current job description, a mechanism for acceptance or refusal of the offer of re-employment within the prescribed time limit, and a place for the laid off worker's signature. Failure to respond within ten (10) days from the date of service of offer of re-employment shall be deemed a refusal of that offer of re-employment.

The Union shall receive concurrent notice of each re-employment offer. Date of service is defined as the date marked on the certified mail return card, or the date the notice is returned by the postal service as undeliverable.

5.8 Miscellaneous Provisions

- 5.8.1 For the limited purpose of Article 5, permanent employees, including workers on probation following reclassification, re-employment, reinstatement, transfer, promotion, or demotion from a permanent position who are laid off shall be entitled to one (1) month severance pay and three (3) months of paid health insurance.
- 5.8.2 Workers appointed from a re-employment eligibility list shall have all rights accrued at the time of layoff restored including accrued sick leave, rate of vacation accrual and seniority, but excluding benefits to the extent compensation therefore has been received prior to re-employment. Severance pay, if any, shall not be repaid.

ARTICLE 6: PERSONNEL ACTIONS

6.1 Probation

- 6.1.1 The probationary period shall be regarded as part of the testing process and shall be utilized for closely observing the worker's work, for securing the most effective adjustment of a new worker to a prospective position, and for rejecting any probationary worker whose performance is not satisfactory.
- 6.1.2 During the seventh pay period following employment, the worker shall receive a performance evaluation. Personnel shall send a reminder notice of this deadline to the appropriate supervisor, with copies to the worker and City Manager.
- 6.1.3 All original ~~and promotional~~ appointments shall be subject to a probationary period of ~~six (6)~~ **twelve (12)** months for unit members. **All promotional appointments shall be subject to a probationary period of six (6) months** except for Police Department Communications Officers, who shall be subject to a probationary period of twelve (12) months. The Personnel Officer may, based upon the recommendation of the worker's supervisor, extend the probationary period not to exceed six (6) months if the worker marginally performed the necessary job functions and needs an additional six (6) months to bring performance to a satisfactory level. Total absences lasting four (4) weeks or more shall extend the review period by the corresponding duration of the absence.

- 6.1.4 At least one month prior to permanent appointment the City shall begin to review the work of the probationary employee to determine the following:
- a. certify him/her for the position;
or
 - b. extend the probation;
or
 - c. reject him/her for the position.

The City shall take action on this determination by the last day of the probation period by notifying the worker in writing. If the notification is delayed by more than five working days following the last day of probation, the worker shall become permanent.

- 6.1.5 If the service of a probationary employee is unsatisfactory, the worker will be notified in writing that he/she has been rejected for the permanent position. Said notice shall contain the reasons for rejection. The Personnel Officer shall, upon request, afford an interview in a timely fashion to the terminated worker for discussion of the reasons for termination. The worker may, upon request, be accompanied by a Union representative. The interview shall not be deemed a hearing nor shall it obligate the City to reconsider or alter the termination action.
- 6.1.6 A worker deemed unsatisfactory for a position shall return to his/her prior classification and non-probationary status in that classification and to the pay step he/she would have had if not promoted, transferred or voluntarily demoted.
- 6.1.7 Departments may not shift job assignments as a reason in itself for placing a worker on probationary status.
- 6.1.8 The parties agree that probationary employees shall have the same rights as other workers under this Memorandum of Understanding, including full and complete access to the grievance procedure, except that workers who do not hold prior permanent status with the City shall have no right to review any disciplinary action or decision to unfavorably terminate the probation.
- Workers who do hold prior permanent status shall have the right to appeal any disciplinary action, but not the decision to unfavorably terminate the probation.
- 6.1.9 A probationary period begins on the first day of work when the worker is selected to fill a permanent position.

6.2 Performance Evaluation

6.2.1 The City may, from time to time, develop reasonable guidelines that enable the supervisor to adequately evaluate the worker as to satisfactory job performance. Job performance reviews shall be conducted pursuant to regularly established and announced policies. The guidelines shall be in accordance with the job specifications for the position being reviewed.

6.2.2 Personnel evaluations will be given workers at least annually, but normally no more than twice a year, as scheduled by Management. Additional evaluations may be scheduled where there is documented evidence in preceding evaluations of the worker's inability to perform significant duties of the position. Management must complete performance evaluations by the date stated on the job performance form. After signing the evaluation to acknowledge receipt, the worker will have ten (10) working days in which to write a response. Signature of the evaluation will not constitute agreement with its contents.

Personnel evaluations are not appealable through the grievance procedure but, in the event of disagreement over content, the worker may request a review of the evaluation with the next higher level of Management, in consultation with the Personnel Officer. For purposes of this review, the worker may be represented by the Union. Decisions regarding evaluation appeal shall be made in writing within ten (10) working days following the meeting.

6.3 Performance Improvement Plans

When the performance of a worker falls below the minimum standards established for a position as set forth in the job performance standards (JPS), a performance improvement plan may be developed. The worker has the right to have a Union representative present during the development of the performance improvement plan. Performance improvement plans must describe in detail the areas of deficiency, and contain a reasonable plan for improvement.

When used, Performance Improvement Plans shall be an integral extension of the job performance review process, and shall not be used, by themselves, for disciplinary actions.

6.4 Personnel Files

6.4.1 The Personnel Officer shall maintain personnel records for each worker in the service of the City showing the name, title of position held, the department to which assigned, salary, changes in

employment status, attendance records and such other information as may be considered pertinent. A worker is entitled to review his/her personnel file upon written request or may authorize, in writing, review by his/her Union representatives, with the exception of information obtained confidentially in response to reference inquiries. Upon written request by the worker, a worker or the Union shall be allowed copies of materials in a worker's personnel file relating to a grievance.

- 6.4.2 The City shall notify a worker of any adverse material placed in his/her personnel file if that material is or has not previously been reviewed with the worker. The worker shall have a reasonable time and opportunity to comment thereon.

Before any adverse memorandum is placed in a worker's file the worker shall be given a copy of the memorandum and adequate time to respond. The Union shall also be given a copy unless the worker has filed a form stating he/she does not want the Union to receive copies of adverse memorandum or has requested in writing that a particular adverse memorandum not be forwarded to the Union.

A joint letter from the Union and the City shall be given to new workers hired after the execution of this agreement. This letter shall inform him/her of the agreement between the City and the Union to provide copies of all adverse memorandum to the Union. This joint letter shall also contain a form to be completed and signed by a worker if he/she does not want copies of adverse memorandum sent to the Union.

- 6.4.3 In any disciplinary action the City may not rely upon any previous written warnings, notice of suspension or demotion, or written evaluation not contained in said file as justification for any personnel action which adversely affects the worker in question, but may rely on oral warnings not made a part of the file and issued within the preceding six (6) months. In the event a worker who has received written warnings or reprimands has completed twenty-four (24) months of work without further disciplinary action, his/her prior disciplinary record of similar instances shall no longer be relied upon in any determination which in any manner affects his/her employment status and such disciplinary record shall be sealed. In cases where a worker is suspended or demoted and such discipline is sustained, a record of such action shall be kept in the personnel file and any such documentation supporting such action shall be kept in a separate file in the Personnel Office.

- 6.4.4 Personnel files of individual workers are confidential information and shall be used or exhibited only for administrative purposes or in

connection with official proceedings before the City Council. The City will only release information to creditors or other persons upon proper identification of the inquirer and acceptable reasons for the inquiry. Information then given from personnel files is limited to verification of employment, length of employment, **any individual salary and benefit information, and any other information requested under the freedom of information act and deemed to be public information.** ~~and verification and disclosure of salary range information.~~ Release of more specific information may be authorized in writing.

6.5 Promotional Opportunities

- 6.5.1 Promotional opportunities for classifications within the representation unit will be posted for at least ten (10) working days (Monday through Friday) prior to closing applications. Such postings shall include a description of the type of examination and screening process that will be used in filling the position. Any test given shall relate to the skills, knowledge, and abilities necessary to perform the job. Where an interview panel is used as part of the examination process, at least one member of that panel shall be a person who is not employed by the City, unless there is a compelling organizational reason why such a person cannot be on the panel.
- 6.5.2 The top three (3) permanent bargaining unit members applying for promotional opportunities and who meet the minimum qualifications for the position will be interviewed regardless of the number of interviewees otherwise requested by the hiring department.
- 6.5.3 The City shall notify the worker applying for the promotion, in writing, of the City's decision to grant or deny the promotion.
- 6.5.4 In the event a temporary employee is appointed to the position being temporarily occupied, the date of hire as a temporary employee will be recognized for purposes of seniority, vacation, and salary advancements.

6.6 Reclassification

- 6.6.1 During the term of this Agreement, the City shall notify the worker concerned in case of contemplated change in job content as contained in the classification descriptions which were in effect at the beginning of the Agreement. The Union shall be notified in advance of any contemplated changes in classification descriptions and such changes shall be discussed with the Union, provided that the City shall have the final decision regarding job content. The Union shall be given a reasonable opportunity to meet and confer on

the impact of any such changes on matters within the scope of representation.

- 6.6.2 Once each year, during the month of January, a worker may request in writing a re-evaluation of his/her job based on significant changes in job content or significant discrepancies between job content and the classification description. The request must contain justification. A statement by Management that a job re-evaluation request will be submitted with the department budget does not relieve a worker from the responsibility of submitting his/her own request in a timely manner. If meetings are held, the worker may request representation by the Union. The City will process the request and issue a recommendation within ninety (90) days. The City shall not agree to a change in the appropriate pay level for a job description until the Union has received a copy of the proposed change and has been given the opportunity to meet and confer with the City. Reclassifications shall become effective after City Council approval of the budget, retroactive to the first pay period of the fiscal year. The Personnel Officer shall notify the Union at least ten (10) days prior to recommending a reclassification. Upon request, the Personnel Officer will meet and confer with the Union to determine whether the worker shall be subject to a probationary period. **In cases where there is a dispute regarding the recommendation of the Personnel Officer, the recommendation may be appealed to the City Manager, whose decision shall be final and not subject to the arbitration provisions of Article 15, Grievance Procedure.**

If the worker receives a favorable recommendation for reclassification prior to the first pay period of the fiscal year, and the City determines that the worker is currently performing the duties of the new classification, he or she will receive pay for working out of classification under Section 7.8.

There shall be no reclassifications during the term of this Agreement.

- 6.6.3 In conducting classification studies, the compensation figure calculated for each City shall consist of the following components: base salary, employer paid employee contributions to the retirement system, deferred compensation contributions made by the employer on behalf of the employee, and the special adjustment.
- 6.6.4 The reclassification procedure shall not be used for the purpose of avoiding use of the promotion or demotion procedures.
- 6.6.5 Salary step placement upon reclassification shall be in accordance with Article 7.4.1 (Effect of Promotion on Salaries).

6.7 Flexible Staffing

6.7.1 The term “flexibly staffed” position refers to those specifically designated positions within a classification series containing an entry level (I) classification and journey level (II) classification and which can be filled at either of those two levels.

The currently identified flexibly staffed positions are:

Accounting Assistant I/II
Maintenance I/II (Building Maintenance, Parks, Streets, Trees)

The City may post and fill the position at either the I or II level. If the City fills the position at the I level, promotion to the II level shall be considered after two years of service at the I level, and after the most recent performance review reflects that acquired skills and experience have advanced to the journey level.

ARTICLE 7: PAY RATES AND PRACTICES

7.1 Overall Wage Adjustment

7.1.1 There shall be no adjustment to the salary schedule during the term of this Agreement.

~~7.1.1 Effective October 29, 2006, the salary schedule for workers in the representation unit shall be as set forth in Appendix “B-1” to this Agreement.~~

~~7.1.2 Effective October 28, 2007, the salary schedule for workers in the representation unit shall be increased by one percent (1.00%) as set forth in Appendix “B-2” to this Agreement.~~

~~7.1.3 Effective October 26, 2008, the salary schedule for workers in the representation unit shall be increased by two percent (2.00%) as set forth in Appendix “B-3” to this Agreement.~~

7.2 Step Increases

~~Merit advances from the first salary step to the second salary step shall be granted at six (6) months intervals and between second and subsequent steps~~ **shall be granted** at one (1) year intervals if the affected worker has demonstrated continued competent service. ~~Workers who are hired in at Steps B, C or D, or are promoted and placed at Steps B, C or D will be eligible for their next step increase in six (6) months.~~ For the purpose of determining step

time requirements, time will commence on the first day of the month coinciding with or following entrance onto a salary step. Step increases shall be effective on the first day of the payroll period in which the time requirements have been met.

7.3 Application of Rates

7.3.1 Workers occupying a position in the competitive service shall be paid a salary or wage within the range established for that position's class under the pay plan as provided. The minimum rate for the class shall normally apply to beginning workers. However, subject to the approval of the Personnel Officer, the department head may hire beginning workers who are especially qualified by their training or by their previous experience at any step in the range.

7.3.2 In the event that a newly hired worker is placed above Step A on the salary schedule due to recruitment problems, as opposed to the conditions in 7.3.1 above, incumbents in that classification who have been placed on a lower step of the salary schedule will be moved to the same step on the salary schedule as the newly hired worker, and all such workers will be allowed to move to the next step in six months.

7.4 Effect of Promotion, Demotion or Transfer on Salaries

7.4.1 Promotion

Upon promotion, a worker's salary shall be adjusted as follows:

7.4.1.1 If the first step in the salary range for the worker's new position is at least five percent (5%) greater than the worker's current salary range, the worker shall be moved to the first step of the new salary range.

7.4.1.2 If the first step in the salary range for the worker's new position is less than five percent (5%) greater than the worker's current salary range, the worker shall be moved to the step which would provide at least a five percent (5%) increase in salary.

7.4.1.3 If no step in the salary range for the new position would provide the worker with at least a five percent (5%) salary adjustment, the worker shall be moved to the top step of the new salary range.

7.4.2 Demotion

Upon demotion of a worker with permanent status in his/her current class, his/her salary shall be adjusted to the highest step in the new class not exceeding the salary received in the former class.

7.4.3 Transfer

Upon transfer, the salary shall remain unchanged.

7.5 Bilingual Differential

7.5.1 Workers who are assigned to job duties requiring bilingual skills are eligible to receive Sixty-Five Dollars (\$65.00) each pay period for the use of bilingual skills in job duties arising during the normal course of work.

7.5.2 Eligibility for the bilingual pay differential shall be determined by the Personnel Officer on the basis of a proficiency test developed and administered by the City.

7.5.3 Bilingual skills shall not be a condition of employment except for workers who are hired specifically with that requirement. If a worker is hired under this provision, that requirement shall be included in the initial appointment letter.

7.5.4 The City retains the right to discontinue the bilingual differential for any individual worker when bilingual services are no longer required, provided the City gives the exclusive representative ten (10) days notice prior to such revocation, in order to allow the opportunity for the parties to meet and confer.

7.5.5 No employee shall be required to use bilingual skills who is not compensated under this section.

7.6 Call Back Pay

7.6.1 Any worker who is required by the City to work on a day when the worker has not been scheduled, or any worker called back to work after the worker has completed his or her regular work day and left the worksite, shall be entitled to a minimum of two (2) hours of compensation at the flat rate of Twenty-Five Dollars and Thirty-Five Cents (\$25.35) per hour or one and one-half times their regular rate of pay, whichever is greater. Call back pay shall not apply where the City requires a worker to remain at the worksite after the completion of his or her regular work shift.

7.6.2 Payment for call back may be at the cash rate specified in Section 7.6.1 above or in compensatory time off at the rate of one and one-half hours for each hour worked, at the worker's option. Prior to the end of the pay period, the worker shall designate, on the appropriate City form, his/her choice of either compensation at the flat dollar rate or one and one-half times their regular rate of pay, whichever is greater or compensatory time off.

7.7 Standby Pay

7.7.1 A worker performing standby duty outside the worker's regular work shift shall be compensated at the rate of Two Dollars and Seventy-Five Cents (\$2.75) per hour for each hour the worker is assigned to standby duty.

7.8 Working Out of Classification

7.8.1 The term "working out of classification" is defined as a Management authorized assignment to perform work on a temporary basis wherein significant duties are performed by a worker holding a classification within a lower compensation range. The employer shall notify workers in advance of making such assignments. Pay for working out of classification shall be as follows:

7.8.1.1 A worker performing duties associated with a higher position, whether filled or unfilled, on an out of classification basis will receive acting pay of five percent (5%) for the hours worked in that capacity.

When the Department Head anticipates that the out of classification assignment will be for a period of 240 hours or more, the worker will receive the pay rate of the higher classification beginning with the start of the assignment. If such a determination has not been made by the end of the 240 cumulative hours worked in the higher classification, the worker shall receive the pay rate of the higher classification, retroactive to the first hour of work.

7.8.1.2 The step within the range of the higher classification will generally be step A, but in no event less than five percent (5%).

7.8.2 Out of classification provisions do not apply to work assignments performed in connection with declared conditions of public peril and/or disaster.

7.9 Advance of Vacation Pay

7.9.1 Vacation pay shall be made available in advance of regular pay day provided that the worker requests such advance in writing to the Personnel Officer at least one (1) week prior to his/her vacation date. The worker's supervisor must verify the vacation date upon request.

7.9.2 Vacation pay for the period shall be one hundred percent (100%) of the worker's regular pay due, less premiums.

7.10 Special Adjustment

7.10.1 Each December, on the First Friday in the month not falling on a pay date, each worker in the represented unit shall receive, in addition to the salary prescribed herein, a special salary adjustment equal to one and one-half percent (1.5%) of the worker's current annual salary. Special adjustments shall be prorated to reflect appointment made during the year, or interrupted service during the year.

The special adjustment is considered special compensation and will not be included in future retirement calculations, as determined by the Public Employees' Retirement System.

7.11 Night and Weekend Differential

Workers in the Library assigned to work hours between 5:00 P.M. and 8:00 A.M. weekdays or between Friday from 5:00 P.M. to Monday 8:00 A.M. shall be compensated for night and weekend differential at five percent (5%) above the worker's base pay.

Workers in the Police Department assigned swing, midnight, relief or day shift on the weekend shall be compensated for night and weekend differential at five percent (5%) above the worker's base pay. Overtime hours shall not be used to qualify for weekend or night shift differential.

7.12 Court Appearances

Workers required to appear in Court during off-duty hours to testify regarding matters arising out of the worker's employment with the City, shall receive a minimum of four (4) hours pay at time and one-half (1.5). The City reserves the right to require the worker to wait to testify at their work location and perform duties as assigned while waiting to testify, provided the Court consents. If the Court requirement expires prior to the expiration of the four (4) hour minimum, the employee shall be released.

This section does not apply in situations where the worker is held over after or called in prior to his or her regular shift as long as the period is adjacent to the normal work shift. In these situations, standard overtime provisions shall apply.

The City reserves the right to provide a beeper to employees required to standby for court appearances.

ARTICLE 8: HOURS AND OVERTIME

8.1 Hours of Work

8.1.1 Regular Work Schedules

- a. The regular work schedule for all workers except those on a flexible schedule such as a 4/10, 9/80 or 12 hour schedule, shall consist of forty (40) hours within a seven (7) day work week and is five consecutive days served in units of eight (8) hours. For this schedule, the workweek begins Sunday midnight and ends Saturday at 11:59 P.M.
- b. A 4/10 work schedule shall be four (4) days served in units of ten (10) hours within a seven (7) day workweek. For this schedule, the workweek begins Sunday midnight and ends Saturday at 11:59 P.M.
- d. A 9/80 work schedule shall be nine (9) days served in one (1) unit of eight (8) hours and eight (8) units of nine (9) hours over a two week pay period. For this schedule, the workweek consists of a consecutive, one hundred sixty-eight (168) hour period, the start of which can vary per worker based on their assigned schedule.
- e. A twelve hour schedule shall be seven (7) days served in six (6) units of twelve (12) hours and one (1) unit of eight (8) hours over a pay period. For this schedule, the workweek conforms to a 7(b) schedule under the Fair Labor Standards Act.

8.1.2 Part-time Workers. Workers who work less than the regular week and day as set forth above shall be designated as part-time and shall have hours scheduled by the appropriate supervisor and approved by the City's Personnel Officer.

8.1.3 Lunch Periods. All workers working a regular work week, except Communications Officers, City Service Officers assigned to patrol or daytime parking enforcement, and Code Enforcement Officers shall observe an unpaid lunch period of not less than thirty (30) minutes

nor more than sixty (60) minutes. Lunch periods shall be scheduled with the approval of the department head. When required by the needs of the department, or requested by the worker and authorized by the Department, Communications Officers, City Service Officers assigned to patrol or daytime parking enforcement, and Code Enforcement Officers shall take an “on duty” lunch period which shall be counted as time worked.

8.1.4 Rest Periods. One (1) fifteen (15) minute rest break with pay shall be provided to unit members for each four (4) hours of service. Rest periods and lunch periods may not be aggregated and used to extend the lunch period or shorten the work day. ~~unless prior approval is obtained from the Personnel Officer.~~

8.2 Overtime

8.2.1 Definition.

- a. Overtime for workers who are not working on a flexible time schedule is any time worked in excess of forty (40) paid hours in any work week.
- b. Overtime for workers on a 4/10 work schedule is any time worked in excess of forty (40) paid hours in any work week.
- c. Overtime for workers on a 9/80 work schedule is any time worked in excess of eighty (80) paid hours in a pay period.
- d. Overtime for workers on a twelve hour work schedule is any time worked in excess of eighty (80) paid hours in a pay period.
- e. For Communications Officers, overtime shall also include any hours worked outside their normally assigned shift.

Overtime shall be compensated pursuant to Section 8.2.3. All overtime must be authorized and approved in advance by the department head.

8.2.2 Modified Schedules. At the request of either the worker or department head, the department head may approve a schedule of more than eight (8) hours per day without overtime compensation. Such a work schedule must be consistent with the regular work schedules defined in Section 8.1.1.

8.2.3 Overtime. Overtime may be assigned on a required basis or requested by the worker and approved by the department head. Overtime shall be compensated at the rate of one and one-half (1.5)

times the worker's regular rate of pay or in the form of compensatory time at the rate of one and one-half (1.5) hours for each hour worked, at the worker's option.

- 8.2.4 Compensatory Time. A worker may accumulate a maximum of eighty (80) hours of compensatory time, except that Public Works Department workers on the call back list may accumulate one hundred twenty (120) hours of compensatory time and Communications Officers may accumulate one hundred sixty (160) hours of compensatory time. Compensatory time may be used when the services of a worker are not needed for the efficient functioning of his/her department, and must be approved in advance by the department head. Once a worker has reached the limits of compensatory time in this section he/she shall receive cash at the overtime rate for all overtime worked.

Upon termination, all unused compensatory time shall be paid off at the final rate of pay received by the worker, or the average regular rate received during the last three (3) years of the worker's employment, whichever is higher.

8.3 Work Schedule

All work schedule and flexible time work schedule arrangements presently in effect shall continue. If the City proposes to change the work schedule of a classification the Union shall be notified at least ten (10) working days in advance and given an opportunity to meet and confer over such proposed changes prior to implementation.

8.4 Library Work Schedule

The City and the Union will meet and confer to explore a revised work schedule for permanent employees to try and provide two consecutive days off per week.

ARTICLE 9: UNIFORMS

- 9.1 The City will provide uniforms, raingear, coveralls or shop coats when necessary for all Public Works, Engineering, and applicable Building and Planning Department workers, consistent with existing practice.
- 9.2 Communications Officers, Communications and Records Supervisors, Records Personnel and City Service Officers shall receive Six Hundred Dollars (\$600) per year uniform allowance. The City will provide uniform jackets for City Service Workers whose work is primarily outdoors. Jackets that are worn or

damaged in the course of work will be routinely replaced by the City. It will be the employee's obligation to replace lost or misplaced jackets.

If any other worker is required to wear a uniform during the life of this Memorandum of Understanding, the City will meet and confer with the Union concerning the establishment of an equitable uniform allowance.

- 9.3 On presentation of appropriate receipts, the City shall reimburse workers who are required by the City to wear safety shoes/boots for up to Two Hundred Fifty Dollars (\$250.00) toward the cost of no more than three (3) pairs of OSHA approved safety shoes/boots per year. Workers in the Public Works Department assigned to the tree crew shall be reimbursed for up to Three Hundred Dollars (\$300.00) toward the cost of no more than three (3) pairs of OSHA approved safety shoes/boots per year. Shoe repair and resoling are reimbursable under this provision. Shoes/boots purchased under this provision are for the use of the worker exclusively.
- 9.4 Employee clothing seriously damaged or destroyed in conjunction with employment duties will be reasonably replaced by the City.
- 9.5 Workers in the Public Works Department shall be permitted to wear shorts, provided that supervisory approval has been given as to their appropriateness in terms of style, location and safety.
- 9.6 The City shall reimburse Equipment Mechanics in the Maintenance Division who, as a condition of employment, are required to provide their own tools and equipment. Reimbursement will be made for tools that the worker selects to purchase, or for tools required to be added to the inventory in order to carry out his or her duties. Reimbursement will be made on submission of receipts, but no more than twice per fiscal year. The City shall reimburse a maximum of one thousand dollars (\$1,000) per fiscal year. The reimbursement shall be administered in accordance with Maintenance Division policy.

ARTICLE 10: HOLIDAYS

10.1 Fixed Holidays

Except as otherwise provided, workers within the representation unit shall have the following fixed holidays with pay:

New Year's Day	January 1
Martin Luther King Day	Third Monday in January
Washington's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September

Veterans Day	November 11
Thanksgiving	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Eve	December 24
Christmas Day	December 25

10.1.1 Except for Communications Officers and Lead Communications Officers, in the event that any of the aforementioned days, except December 24, falls on a Sunday, the following Monday shall be considered a holiday. In the event that any of the aforementioned days falls on a Saturday, the preceding Friday shall be considered a holiday. In the event that December 24 falls on a Sunday, then the preceding Friday shall be considered a holiday.

Bargaining unit members in the Communications Officer and Lead Communications Officer classifications shall observe **Independence Day, Veterans Day, Christmas Day, Christmas Eve** and New Year's Day on the actual date of the holiday.

10.1.2 Pay for Fixed Holidays. All workers shall be paid a full day's pay at their regular straight time base hourly rate for all fixed holidays as defined herein.

10.1.3 Work on Fixed Holidays. Any worker required to work on a fixed holiday and in addition to regular hours shall be paid time and one-half for such work in addition to his/her holiday pay. Work on a fixed holiday beyond the number of hours in a regular shift shall be compensated at double time.

Any part-time worker required to work on a fixed holiday and in addition to regular hours shall be paid time and one-half for such work in addition to his or her holiday pay. Work on a fixed holiday beyond the number of hours in a regular shift shall be compensated at time and one-half.

10.2 Floating Holiday Time

Workers shall annually receive thirty-four (34) floating holiday hours off with pay, credited on the first pay period of the year. Workers hired after the first pay period of the year shall receive a pro-rated amount of floating holiday hours for the remainder of the calendar year.

The following conditions will apply to such floating days off:

- 10.2.1 Workers shall request a floating day off in accordance with normal vacation time off request procedure. In cases of conflicting requests for the same day made at the same time, length of service shall govern who receives the day off.
- 10.2.2 Floating days off received prior to November 14, 1993 which cannot be scheduled shall be converted to compensatory time off and used in accordance with the provisions of 8.2.4 herein. Floating days off received after November 14, 1993 may not be converted to compensatory time off and must be used during or prior to the end of the first pay period of the following year in which it was credited or be forfeited.
- 10.2.3 If a worker fails to take a day off as scheduled, the day off so scheduled will be forfeited, unless a mutually agreeable alternative day off is arranged.
- 10.2.4 Any floating day off for workers who work less than full-time or less than a full year shall be prorated on the basis of hours worked as compared to full-time employment.
- 10.2.5 Floating holiday balances remaining at the time of separation will be forfeited.

ARTICLE 11: VACATIONS

11.1 Each worker shall be entitled to an annual paid vacation, accrued as follows:

11.1.1 For full-time workers:

Less than three (3) years of service - 88 hours per year.

Three (3) years of service through five (5) years of service - 104 hours per year.

Six (6) years of service through ten (10) years of service - 136 hours per year.

Eleven (11) years of service through fifteen (15) years of service - 152 hours per year.

Over fifteen (15) years of service - 176 hours per year.

11.1.2 For permanent part-time workers: a proportional equivalent based on the assigned number of hours worked per week as compared to those worked by a full-time worker.

11.2 Effect of Probationary Period

Vacations cannot be taken during the first six (6) months of employment; however, the probationary period counts for purposes of vacation accrual.

11.3 Maximum Accrual

Vacation may be accrued up to a maximum of three hundred thirty-six (336) hours. The maximum accrual for part time employees shall be a proportional equivalent. After reaching said maximum, the worker must take time off or accrual will be frozen. Upon separation, there will be no payment for hours in excess of the maximum accrual.

11.4 Scheduling

The department head shall determine the vacation schedule considering the needs of the department, specifically with regard to the worker's assigned duties and the worker's desires. Vacation time requested shall not be unreasonably denied.

11.5 Payment on Separation or Leave

Accrued vacation time up to the maximums described in Section 11.3 above shall be paid to a worker permanently separated from City service, or, at the request of the worker, when granted a leave of absence.

11.6 Cashout Provision

When a worker schedules three (3) but less than five (5) paid days off, he/she may cash in up to eighty (80) hours of accrued vacation time. When a worker schedules five (5) or more paid days off, he/she may cash in up to one hundred twenty (120) hours of accrued vacation time. No more than one hundred twenty (120) hours of vacation time may be cashed in during any one calendar year. The cashout check shall be made available one week before vacation commences provided the worker gives two weeks notice of his/her request in writing to the Personnel Division.

Should the scheduled vacation be canceled or not taken within six months of the date of the cashout, the cashed out funds shall be refunded to the City in accordance with a repayment schedule worked out with the Personnel Division.

11.7 Illness During Scheduled Vacation

A worker who, during a scheduled vacation period, becomes ill or injured, shall be entitled to have the remaining time off coded as sick leave, under the following conditions:

- a. The worker otherwise qualifies for sick leave as provided by this Agreement and has sufficient sick leave to cover the period; and,
- b. The worker's illness or injury is verified by a statement from an accredited medical doctor for each such day of illness for which leave is requested.

If vacation time has been deducted for the period covered under this Section, and the use of sick leave has been approved, the time will be credited back and sick leave used in its place.

ARTICLE 12: LEAVE PROVISIONS

12.1 Sick Leave

12.1.1 Accrual Rates. The City shall provide each worker with paid sick leave at the rate of eight hours per month, earned on a biweekly basis and computed as follows:

12.1.1.1 Full-time workers may accrue up to a maximum of one thousand four hundred forty (1,440) hours for full time workers, and a proportional equivalent for part-time employees.

12.1.2 Use of Sick Leave. Sick leave shall be allowed and used in cases of actual personal sickness or disability, medical or dental treatment, or as authorized for other necessary health reasons. Up to six (6) days per year of sick leave may be used in cases of actual sickness or disability, medical or dental treatment of members of the worker's immediate family. Such usage is in addition to personal business leave as described in Section 12.3 of this Agreement, and shall apply towards the provisions of Section 12.1.4.

Sick leave shall not be coded on a day which is designated a City holiday. On these days, the employee shall receive credit for the holiday. Holidays shall be considered a work day for purposes of Article 12.2.1.

12.1.3 Abuse Enforcement. The City shall be obligated to monitor all sick leave use, and shall take appropriate actions to insure that benefits are paid out only for actual illness or injury.

12.1.3.1 Any worker who does not have an accrued sick leave balance and who does not otherwise qualify under the provisions of this Article 12, shall not be paid for any day of sick leave called in, whether genuine or not.

12.1.3.2 Management has the authority to monitor potential sick leave abuse and patterns of abuse, and when there is a reasonable basis for suspecting such abuse, may require medical verification as a condition for payment of sick leave. A sick leave incident policy is an acceptable means of detection and abuse enforcement as long as such policy is uniformly administered by the Personnel Division.

12.1.3.3 Abusive sick leave patterns automatically forfeit the worker's right to a merit increase, and may adversely affect transfers and promotions. Chronic abuse may result in severe disciplinary action, such as suspension, demotion or dismissal.

~~12.1.4 Award for Non Use. Workers who are employed the entire fiscal year with no interruptions in service and, as of June 30 of each year have taken no more than twelve sick leave hours during the course of the year, will receive an award of twenty four hours of sick leave or twelve hours of compensatory time off, as specified by the worker. Workers who have taken sixteen hours of sick leave will receive sixteen hours of sick leave or eight hours of compensatory time off. Employees who have taken twenty four hours of sick leave will receive eight hours of sick leave or four hours of compensatory time off.~~

~~A worker who calls in sick and, upon return, requests to use time from another leave bank for that absence, will be ineligible to receive the award for non use for the fiscal year.~~

12.1.5 Compensation for Accumulated Sick Leave.

12.1.5.1 Resignation. A resigning worker, **who was hired into the unit prior to May 4, 2010 and** who has fifteen (15) or more years of continuous service shall receive compensation for up to fifteen percent (15%) of his/her accumulated sick leave balance up to a maximum of five hundred (500) hours. Such compensation shall be based on

the worker's rate of pay on his/her last day paid service to the City.

12.1.5.2 Retirement. A worker who **was hired into the unit prior to May 4, 2010 and who** retires under PERS from the City may elect to receive cash compensation for fifteen percent (15%) of his or her accumulated sick leave balance, up to a maximum of one thousand three hundred sixty (1,360) hours, based upon the worker's rate of pay on his or her last day of paid service to the City, or may convert their sick leave balance, up to a maximum of one thousand three hundred sixty (1,360) hours, to retirement health credits at the rate prescribed in Section 12.1.5.3. Workers may combine any of the above two options.

12.1.5.3 Retirement Health Credit Conversion. A worker **who was hired into the unit prior to May 4, 2010 and who has** with a minimum of five (5) years of continuous service who elects to convert accumulated sick leave to retirement health credits upon retirement from the City may do so under the following schedule:

Five (5) years of service to fifteen (15) years of service: eight (8) hours of sick leave for each retirement health credit, with any remainder being rounded to the next higher credit;

Fifteen (15) years of service to twenty (20) years of service: six (6) hours of sick leave for each retirement health credit, with any remainder being rounded to the next higher credit;

Over twenty (20) years of service three (3) hours of sick leave for each retirement health credit, with any remainder being rounded to the next higher credit.

If this election is made, the retirement health credit calculated shall not exceed the highest HMO health plan premium as may be in effect at such time such credit is applied. Election shall be made at the time of retirement.

12.1.5.4 Layoff. A worker who **was hired into the unit prior to May 4, 2010 and who** has been laid off may select as compensation for accumulated sick leave one month of paid health insurance for each unit of retirement health credit. After the health insurance benefit paid under Section 5.8.1 has been exhausted, up to a maximum of

forty-eight (48) hours of the accrued sick leave balance may be converted to retirement health credits at the rate of one (1) unit for every eight (8) hours of accumulated sick leave with any remainder being rounded to the next higher credit.

- 12.1.6 Double Coverage. Workers who qualify for the retirement health credit conversion may elect double coverage at the rate of two (2) units for every month of paid health insurance.
- 12.1.7 Family Coverage. Workers who qualify for the retirement health credit conversion may elect family coverage at the rate of three (3) units for every month of paid health insurance.
- 12.1.8 Transfer of Sick Leave for Catastrophic Illness. Transfer of sick leave for catastrophic illness is designed to assist workers who have exhausted sick leave due to a catastrophic illness, injury or condition of the worker. This policy allows other workers to make voluntary grants of time to that worker so that he/she can remain in a paid status for a longer period of time, this partially ameliorating the financial impact of the illness, injury or condition.

A catastrophic illness is defined as an illness which has been diagnosed by a competent physician, requiring an extended period of treatment or recuperation, and which has a significant risk to life or life expectancy. Confirmation of the condition and prognosis by a health care provider chosen by the City may be required.

The Personnel Division will discuss with the Union or their designated representative an appropriate method of soliciting contributions from coworkers. The contributions shall be submitted to the Personnel Division and Personnel will process the contribution list in the order established. Any worker shall be allowed to contribute a maximum of eighty (80) hours of sick leave from their accrued sick leave balance to another full-time or permanent part-time worker in the City who is suffering from a catastrophic illness and has exhausted his or her own sick leave, provided, however, they have maintained a positive sick leave balance of forty (40) hours or more following the donation. Once the contribution is made it cannot be rescinded.

Upon return to work, a worker may bank any remaining hours that have been contributed up to a maximum of forty (40) hours. If the contribution list has not been exhausted, the contributing workers will be notified that their contribution was not required and the balance restored.

Determination of employees eligible for the program shall be made by the Personnel Director, whose decision shall be final.

12.2 Long Term Disability

- 12.2.1 Should any illness or injury extend beyond thirty working (30) days, the City will insure continued payment to the worker at 66.67 percent of salary, up to a maximum as provided in the long-term disability policy. The amounts paid shall be less any payments received from either Workers' Compensation or retirement. During the first year of disability and so long as no retirement determination has been made by the City, the worker will be entitled to continued City paid health insurance, AD&D, dental and life insurance benefits, and to the accrual of vacation time. At the end of 365 calendar days from the date of illness or injury or unless previously retired, should the worker not be able to return to work, the worker would officially cease being an employee and receive no further entitlements beyond the 66.67 percent salary requirement as provided in this Section 12.2.
- 12.2.2 If a worker terminated after 365 calendar days from the date of illness or injury in compliance with 12.2.1 above, is medically certified to return to work within twenty-four (24) months of the termination date, the worker may request re-employment with the City. The worker's request for re-employment shall be accompanied by a physician's statement certifying the types of duties the worker is able to perform. This re-employment situation shall be conducted in accordance with Section 5.7. However, this re-employment status does not take precedence over workers on a re-employment list due to layoffs.
- 12.2.3 Workers who have a sufficient amount of sick leave time may, at the worker's option, use sick leave on a hour-for-hour basis to delay the start of the long term disability plan. The long term disability plan would start upon the exhaustion of sick leave. The City procedures which allow for follow-up of a worker who has been out on an extended disability shall apply to workers under this section.

12.3 Personal Business Leave

- 12.3.1 A worker shall be entitled to a maximum of three (3) days per calendar year for Personal Business Leave without loss of pay. Such leave shall be deducted from accrued sick leave, and shall apply toward Section 12.1.4 Award for Non-Use.
- 12.3.2 Personal Business is defined as business of urgent and compelling importance which cannot be taken care of outside of normal working hours and which is not covered under other leave provisions of this

Memorandum of Understanding or leave to care for a member of the immediate family who is ill or injured.

- 12.3.3 A worker shall notify the department head two (2) days before taking this leave, unless an emergency exists which prohibits the worker from providing such advance notice.
- 12.3.4 Workers shall complete an absence affidavit which shall verify that the worker's use of leave was for personal business of urgent and compelling importance or leave to care for a family member as defined above, and that such leave has not been used for recreational purposes, extension of holidays or vacation, work stoppages, or for matters of purely personal convenience.
- 12.3.5 At the discretion of the supervisor, a worker may also use vacation, compensatory time off or floating holiday time to cover absences of an emergency nature. No request shall be unreasonably denied.

12.4 Leave Without Pay

- 12.4.1 Vacancies created as a result of leave without pay may be filled in the following manner:
 - a) By temporary employees for a maximum of six (6) months;
 - b) By provisional employees.

If a leave is extended beyond the initial fixed period, temporary employees may be held over for up to three (3) months (for a total term of employment of nine (9) months) in a temporary capacity. Provisional employees may be held over if a leave is extended, or, in cases where the position is vacated, for the duration of the recruitment period.

- 12.4.2 Leaves of absence without pay may be granted in cases of personal emergency or when such absences would not be contrary to the best interest of the City.
- 12.4.3 Requests for leaves of absence without pay must be written and submitted to the department head and Personnel Officer. The Personnel Officer may grant a permanent employee leave of absence without pay for a period not to exceed one (1) year, during which time no benefits and no seniority credit will accrue. Approval shall be in writing and a copy filed with the Personnel Division. Upon expiration of a regularly approved leave, or within five (5) working days after notice to return to duty, the worker shall be reinstated in the position held at the time the leave was granted. Failure on the part of a worker on leave to report promptly at its expiration, or

within three (3) working days after notice to report to duty, may be deemed notice of resignation and/or cause for disciplinary action.

12.4.4 During unpaid leaves of absence, the worker may elect to use accrued vacation time.

12.5 Jury Duty and Subpoenas

12.5.1 A worker required to report for jury duty or to answer a subpoena as a witness, provided the witness has no financial interest in the outcome of the case, shall be granted a leave of absence with pay from his/her assigned duties until released by the court, provided the worker remits to the City all fees received from such duties other than mileage or subsistence allowances within thirty (30) days from the termination of jury service.

12.5.2 This leave of absence with pay shall extend to workers' whose regular shift is a shift outside of the hours of 8:00 A.M. to 5:00 P.M., so that such workers shall not be required to work their regular shift on a day in which they perform jury duty or respond to a subpoena.

12.5.3 When a worker returns to complete a regular shift following time served on jury duty or as a witness, such time falling within work shift shall be considered as time worked for purposes of shift completion and overtime computation. In determining whether or not a worker shall return to his/her regular shift following performance of the duties above, reasonable consideration shall be given to such factors as travel time and a period of rest.

12.6 Military Leave

Military leave of absence shall be granted and compensated in accordance with all applicable laws. Workers entitled to military leave shall give the appointing power an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

12.7 Bereavement Leave

A worker with six (6) months or more service shall be allowed regular pay for not more than three (3) working days when absent because a death has occurred in the immediate family. For purpose of bereavement leave, members of the immediate family shall be limited to mother, stepmother, father, stepfather, mother-in-law, father-in-law, grandmother, grandfather of the worker, or spouse, brother, stepbrother, sister, stepsister, domestic partner or dependent of the worker.

To qualify for bereavement leave in the event of the death of a domestic partner, a declaration of domestic partnership must have been filed by the worker with the Personnel Division not less than six (6) months prior to the death of the domestic partner.

Employees may use personal leave for bereavement purposes for relations not included above provided such leave is approved in advance by the Department head.

12.8 Maternity Leave of Absence Without Pay

12.8.1 Maternity leave of absence without pay or benefits may be granted upon request to non-disabled probationary and permanent female workers for that period of time necessary for the worker to prepare for and recover from the effects of childbirth.

12.8.2 Maternity leave shall be granted when the following conditions have been met:

12.8.2.1 The worker shall notify her department head in writing accompanied by her physician's certificate of pregnancy as soon as possible after pregnancy has definitely been determined, but no later than ninety (90) days prior to tentative date on which the leave is to begin. Such notice shall include the tentative dates on which the leave shall begin and end.

12.8.2.2 Within thirty (30) days of the beginning of the maternity leave, the worker shall submit to the Personnel Officer the specific date she intends to begin the leave, accompanied by her physician's written statement attesting to the worker's ability to continue performing the full schedule of her duties and responsibilities. She shall continue on active duty until the specific date providing she performs the full duties and responsibilities of her position and furnishes additional health statements from her physician upon reasonable request.

12.8.2.3 Prior to the establishment of a specific date for return to duty, the worker shall submit to the Personnel Officer a notice of intention to return to duty, accompanied by her physician's statement certifying that the worker is medically qualified to assume full duties and responsibilities.

12.8.2.4 The Personnel Officer or his/her designee may designate the specific beginning and ending dates to meet the needs of the worker and the City.

12.8.3 The worker on leave shall be returned to an equivalent position within her classification.

12.8.4 A maternity leave, absent physical disability, is granted without pay for the duration of the leave. The worker may elect to continue medical and dental insurance coverage for up to one (1) year during this leave at her own expense.

12.9 Leave for Pregnancy Disability

12.9.1 Workers who are working are entitled to use personal illness and injury leave for disabilities caused or contributed to by pregnancy, miscarriage, childbirth, and recovery there from on the same terms and conditions governing leaves of absence for other illness or medical disability. Such leave shall not be used for child care, child rearing, or preparation for childbearing, but shall be limited to those disabilities as set forth above. The length of such disability leave, including the date on which the leave shall commence and the date on which the duties are to be resumed, shall be determined by the worker and worker's physician; however, the Personnel Officer may require a verification of the extent of disability through a physical examination of the worker by a physician appointed by the City at City expense.

12.9.2 Workers are entitled to leave without pay or other benefits for disabilities because of pregnancy, miscarriage, childbirth, or recovery there from when sick leave had been exhausted. The date on which the worker shall resume duties shall be determined by the worker on leave and the worker's physician; however, the Personnel Officer may require a verification of the extent of disability through a physical examination of the unit member by a physician appointed by the City.

12.9.3 The worker on leave for pregnancy disability shall be entitled to return to an equivalent position within her classification.

12.10 Parental Leave

A worker/parent of either sex may be granted a leave of absence without pay for the purpose of fulfilling parenting responsibilities during the period of one (1) year following the birth of a child or the filing of application for adoption and actual arrival of child in the home. Such leave is to be for a maximum period of six months.

12.11 Miscellaneous Leave Provisions

- 12.11.1 Leaves of absence without pay which exceed four (4) weeks and are for leaves other than military, or job related disability shall not be included in determining seniority.
- 12.11.2 At the conclusion of a leave of absence a worker shall be returned to an equivalent position within his/her classification.
- 12.11.3 For any unpaid leave of absence the worker may elect to continue insurance coverage for up to the duration of his/her leave of absence at his/her own expense.
- 12.11.4 For any paid leave of absence, all benefits continue to accrue.
- 12.11.5 The Personnel Officer and his/her designee will designate the specific beginning and ending dates to meet the needs of the worker and the City, which shall not be less than four weeks nor exceed one unpaid year.
- 12.11.6 At the specified date for return to duty from unpaid leave, if the worker has been disabled, the worker's notice of intention to return to duty shall be accompanied by a physician's statement certifying that the worker is medically qualified to assume full duties and responsibilities. If a worker is not medically qualified to assume full duties, on the date specified in Section 12.11.5, he/she shall be granted leave accumulated in accordance with Section 12.1.1 but shall not be entitled to any other benefits.
- 12.11.7 At the conclusion of a leave of absence for any disability the worker may be required to submit a physician's statement certifying that he/she is medically qualified to resume work.
- 12.11.8 Leaves shall not be unreasonably denied.
- 12.11.9 All provisions of this Article shall be administered in conformance with the Family and Medical Leave Act and State Law.

12.12 Educational Leave and Tuition Reimbursement

- 12.12.1 The City shall contribute Eleven Thousand Two Hundred Dollars (\$11,200.00) annually on July 1st of each year to an educational leave and tuition reimbursement fund. The City will reimburse expenses for tuition, books and curriculum fees incurred by a worker, to a maximum of One Thousand Dollars (\$1,000.00) per fiscal year, for classes completed in accredited institutions of learning or

approved specialized training groups leading to an academic degree or improved job related skills. Programs must be approved in advance. Workers wishing to engage in educational programs involving work time may be granted rescheduled time if departmental operations permit. Payment from this fund shall be made on a tax-exempt basis only where the expenses are from educational expenses directly related to the worker's current employment, as defined by IRS law.

12.12.2 Workers may request an advance of funds subject to the approval of the Personnel Officer. Advances may be granted for tuition, books and other curriculum fees in exchange for a repayment agreement in the event advances are not supported or courses are not satisfactorily completed as indicated by a grade of "C" or better. The worker may not elect to take a "pass-fail" grade if the letter system of grading is offered.

12.12.3 All workers assigned by the City to attend meetings, workshops, or conventions shall have their dues and reasonable expenses paid by the City and shall be allowed to attend such workshops, meeting and conventions on paid City time. Such required educational functions shall be reimbursed from departmental training funds and shall not be counted against the worker's allowance or the annual tuition reimbursement.

Workers may under the tuition reimbursement fund request reimbursement for trade publications, technical books, and printed materials related to the worker's employment.

12.12.4 In the event that there are unused funds remaining in the city-wide educational leave and tuition reimbursement fund on June 30 of any year, workers who present appropriate receipts verifying expenditures in excess of One Thousand Dollars (\$1,000.00), for items which are reimbursable under this Section 12.12, shall receive a pro rata share of those remaining funds not to exceed the actual amount of the difference between the actual expenditure and One Thousand Dollars (\$1,000.00) up to a maximum of Four Thousand Dollars (\$4,000.00). These requests for additional reimbursement must be received by the City no later than July 15 of that year.

12.12.5 The City will reimburse expenses for fees incurred by a worker, for courses completed in stress management, self defense, conflict resolution, and time management from this fund. Participation would be limited to One Hundred Fifty Dollars (\$150.00) per worker, or a total of Two Thousand Dollars (\$2,000.00) during the fiscal year.

12.12.6 Any unused balance in the fund shall be transferred to the City's self insured dental and vision fund.

ARTICLE 13: BENEFIT PROGRAMS

13.1 Medical

13.1.1 The City shall continue the existing coverage for medical insurance plans for workers through the term of this Agreement.

13.1.2 Each active and each retired worker shall receive a City contribution equal to the minimum employer contribution for agencies participating in the Public Employees Medical and Hospital Care Act (PEMHCA).

13.1.3 Each active worker shall be allocated an amount, inclusive of the City contribution specified in Section 13.1.2 to be used to purchase qualified benefits as described in this Section. The amount shall be allocated to each worker according to the health benefits selected, as follows:

\$1,106.30 \$1,681.50 per month	family coverage
\$851.00 \$1,296.55 per month	two person coverage
\$425.50 \$648.26 per month	single person coverage
\$186.88 per month	no coverage

~~13.1.4 Effective with implementation of cafeteria plan year, each active employee shall be allocated an amount, inclusive of the employer contribution specified in Section 13.1.2 to be used to purchase qualified benefits as described in this Section. The amount shall be allocated to each worker as follows:~~

\$1,258.95 per month	family coverage
\$968.42 per month	two person coverage
\$484.21 per month	single person coverage
\$186.88 per month	no coverage

~~13.1.5 Effective with the implementation of cafeteria plan year 2008, the family, two person and single person amounts specified in Section 13.1.4 shall be adjusted to the corresponding basic monthly rate for the highest HMO available for the Bay Area/Sacramento region.~~

~~13.1.6 Effective with the implementation of cafeteria plan year 2009 and thereafter, the amounts for each tier of coverage shall be~~

~~adjusted to the corresponding basic monthly rate for the highest HMO less \$10.00 per month for single person coverage, less \$20.00 per month for two person coverage and less \$30.00 per month for family coverage. The no coverage option shall remain at \$186.88 per month.~~

13.1.74 Each worker may use his/her allocated amount for:

- a. Health insurance in accordance with PERS regulations and Federal law;
- b. Additional life insurance, provided by the City's insurance carrier, up to the maximum allowed by the City's carrier;
- c. Child care expenses not otherwise reimbursed by the City;
- d. Any personal medical, dental and vision care expenses not covered by the City's plans, including but not limited to deductibles, co-payments, medication and medical equipment.
- e. If any worker expends less than the total of his/her allocated amount above the minimum employer contribution contained in 13.1.2, then that worker will be entitled to receive 80% of such unused amount in cash, subject to appropriate tax withholding.

13.1.85 Employees **hired into the unit prior to May 4, 2010**, who have at least ten (10) continuous years of permanent service with the City and who retire under PERS shall be reimbursed by the City at the rate of one hundred dollars (\$100.00) per month (in addition to the minimum employer contribution contained in 13.1.2) toward the retiree's worker only health care premium once the employee has exhausted the sick leave conversion to retiree health credits under Section 12.1.5.3. ~~The anticipated minimum employer contribution for plan year 2007 is \$80.80 per month, and the anticipated minimum employer contribution for plan year 2008 is \$97.00 per month.~~

In order to be eligible for the reimbursement in this Section, the worker must be enrolled in an available PEMHCA health insurance ~~plan or demonstrate that he or she has health insurance coverage that is at least eighty percent (80%) comparable overall to a PEMHCA plan.~~

13.1.96 The City will continue to pay flexible compensation in the amount of Thirty-One Dollars (\$31.00) per month and cash in lieu of medical benefits of Five Hundred Forty-Four Dollars and Seventy-Seven Cents (\$544.77) to those workers hired prior to July 1, 1983 who qualify pursuant to the current programs. Workers hired on July 1, 1983, and thereafter, shall

not be entitled to these options. Workers who discontinue flexible compensation or cash in lieu of medical coverage after June 30, 1983, shall not be entitled to re-enroll in these programs.

13.1.107 For part-time workers who are a member of the unit, the City shall prorate the dollar amount allocated under Sections 13.1.3, ~~13.1.4, 13.1.5, 13.1.8 and 13.1.96. The \$10.00, \$20.00 and \$30.00 amounts contained in Section 13.1.6 shall be prorated accordingly.~~

13.1.118 Workers whose medical insurance premium costs exceed the combined allocation available through the cafeteria plan and Section 13.1.2 shall have the excess cost of their medical premiums paid with before-tax compensation through a premium conversion plan.

13.1.129 Each full-time worker must enroll in an available health insurance plan or demonstrate that he/she has health insurance coverage in order to receive cash back under Section 13.1.7 (e).

13.1.1310 Workers who wish to have domestic partners covered under the cafeteria plan may do so after filing the “Declaration of Domestic Partnership” form with the California Secretary of State and complying with any other requirements necessary to qualify for domestic partner health benefits under the PEMHCA plans. It is understood that the premiums and benefits provided as a result of covering domestic partners may be taxable, and that the City will administer the program in accordance with State and Federal Tax regulations.

13.1.1411 The parties share an interest in addressing the increase in the cost of PEMHCA benefits. The City shall meet and confer with the Union prior to contracting with the alternative provider, consortia or group. However, the Union will have the option to remain in the PEMHCA program.

13.2 Dental and Vision

13.2.1 The City shall contribute One Hundred Twenty Dollars (\$120.00) per worker per month to the City’s self insured dental and vision program.

Effective ~~October 28, 2007~~ **March 25, 2012**, the City shall contribute One Hundred ~~Fifteen Dollars (\$115.00)~~ **Forty Dollars (\$140.00)** per worker per month to the City’s self insured dental and vision program.

~~Effective October 26, 2008, the City shall contribute One Hundred Twenty (\$120.00) per worker per month to the City's self insured dental and vision program.~~

- 13.2.2 For purposes of dental reimbursement, the dental claims periods shall run from January 1 to June 30 and from July 1 to December 31. The maximum reimbursement for any claims period shall not exceed One Thousand ~~Four Hundred Dollars (\$1,400.00)~~ **Five Hundred Dollars (\$1,500.00)** for a worker and Seven Hundred ~~Dollars (\$700.00)~~ **Fifty Dollars (\$750.00)** for a worker's dependents or domestic partners. The maximum claim for vision shall not exceed Six Hundred Dollars (\$600.00) annually for any worker and Three Hundred Dollars (\$300.00) annually for a worker's dependents or domestic partners.

The maximum reimbursement for vision shall be separate from the maximum reimbursement for dental.

- 13.2.3 On presentation of the City's Dental and Vision Reimbursement Forms accompanied by appropriate receipts, workers will be reimbursed for dental and vision care expenses not covered by other insurance plans up to the maximums set forth in Section 13.2.2 above. Worker reimbursement requests shall be processed upon receipt. At the midpoint between each claims period, workers may submit dependent or domestic partner reimbursement requests and the City will pay fifty percent (50%) of such request. The balance of any dependent or domestic partner adjustments will be made at the end of the normal claims period, provided funds are available. If the quarterly payments result in the fund having a negative balance, the negative amount will be adjusted during the next claims period. In that case, the parties will meet and discuss ways of eliminating future negative balances.

- 13.2.4 Any excess of funds shall be rolled over to the next period.

- 13.2.5 Domestic partner dental benefits may be taxable to the employee and the benefit will be administered in accordance with State and Federal Tax regulations.

13.3 Plan Descriptions

Descriptions of the insurance plans provided herein are contained in the PERS Basic Health Plan Book. The descriptions are for informational purposes only and do not affect the obligations hereunder.

13.4 City Recreation Programs

- 13.4.1 The City shall contribute Ten Thousand Eight Hundred Dollars (\$10,800.00) annually on July 1 each year to this recreation reimbursement fund. The worker may request a recreation voucher from the Personnel Division for fees incurred by the worker and/or his/her dependents for participation in recreation programs run by the City's Community Services Department. The processing of the voucher shall be on a first come first served basis. Vouchers must be submitted to the Personnel Division during the fiscal year the expense was incurred. Such payments shall be made on a tax-exempt basis only where the employee and/or the dependent is enrolled on a space available basis, as defined by IRS law.
- 13.4.2 In the event that there are unused funds remaining in the recreation reimbursement fund on June 30 of any year, the remaining monies shall be added to the City's self insured dental program for this unit.
- 13.4.3 Employees may charge up to \$250.00 per year for recreation room rentals to this fund.

13.5 City Child Care Programs

The City shall contribute Sixteen Thousand Dollars (\$16,000) on July 1 of each year to the Child Care reimbursement fund, and there shall be a One Thousand Twenty Dollar (\$1,020.00) maximum amount available to any individual employee, reimbursable at the rate of Eighty-Five Dollars (\$85.00) per month for as long as funds are available. These funds may be used to reimburse a worker for child care provided by any licensed child care provider. Workers shall be eligible to encumber Eighty-Five Dollars (\$85.00) per month toward the cost of any City run child care program in advance of actual enrollment in that program.

Such payments shall be made on a tax-exempt basis only where the employee and/or dependent is enrolled on a space available basis, as defined by IRS law.

In the event that there are unused funds remaining in the City Child Care Fund on June 30 of any year, the remaining money shall be added to the City's self insured dental program.

13.6 Employee Assistance Program

The City shall continue to provide an employee assistance program to workers as currently provided.

13.7 Life Insurance

The City will provide to all workers life insurance at the rate of 1-1/2 times each worker's regular yearly wage.

ARTICLE 14: RETIREMENT

14.1 The City will continue the retirement program and benefits currently provided under contract with the Public Employees' Retirement System.

14.2 Retirement benefits for employees **hired by the City prior to February 12, 2012** shall be those established by the Public Employees' Retirement System (CalPERS) for local miscellaneous members 2.7% at age 55 formula, single highest year.

14.3 Retirement benefits for employees hired by the City on or after February 12, 2012 shall be those established by the Public Employees' Retirement System (CalPERS) for local miscellaneous members 2.0% at age 60 formula, highest three years.

~~Effective March 29, 2009, subject to an affirmative vote by the employees impacted by the change in the employees' rate of contribution as specified by PERS regulations, retirement benefits for employees shall be those established by the Public Employees' Retirement System (PERS) for local miscellaneous members 2.7% at age 55 formula, single highest year.~~

14.34 The full unit member's contribution shall be deducted from the unit member's pay by the City and forwarded to the Public Employees' Retirement System in accordance with the rules and regulations governing such contributions.

14.5 Should the employer rate rise above 14.597%, the increase shall be shared equally between the employee and the employer. As an example, if the employer rate for 2011-12 is 15.597%, the City shall pay 15.097% and the employee shall pay 8.500% (inclusinve of the 8.000% fixed employee contribution).

ARTICLE 15: GRIEVANCE PROCEDURE

15.1 Definitions

15.1.1 A grievance is defined as:

15.1.1.1 An alleged violation, misinterpretation or misapplication of the provisions of this Memorandum of Understanding, Personnel Rules, or other City ordinances, resolutions,

policy and/or procedure manuals affecting the working conditions of the workers covered by this Agreement; or

15.1.1.2 An appeal from a disciplinary action of any kind against a worker covered by this Memorandum of Understanding.

15.1.2 A “grievant” is any worker adversely affected by an alleged violation of the specific provision of this Memorandum, or the Union.

15.1.3 A “day” is any day in which the City Hall of Menlo Park is open for business.

15.1.4 The “immediate supervisor” is the lowest level administrator who has been designated to adjust grievances and who has immediate jurisdiction over the grievant.

15.2 General Provisions

15.2.1 Every effort will be made by the parties to settle grievances at the lowest possible level.

15.2.2 All documents dealing with the processing of a grievance shall be filed separately from the personnel files of the participants, except that this provision shall not apply to grievances challenging discipline imposed by the City under Article 21 of this Memorandum.

15.2.3 No party to a grievance shall take any reprisals against the other party to the grievance because the party participated in an orderly manner in the grievance procedure.

15.2.4 Failure of the grievant to adhere to the time deadlines shall mean that the grievance is settled. The grievant and the City may extend any time deadline by mutual agreement.

15.2.5 Every effort will be made to schedule meetings for the processing of grievances at times which will not interfere with the regular work day of the participants.

15.2.6 Either the City or the Grievant may be represented at any step of the grievance procedure by an individual of the party’s choice.

15.2.7 Any unit member may at any time present grievances to the City and have such grievances adjusted without the intervention of the Union, as long as the adjustment is reached prior to arbitration and is not inconsistent with the terms of this Memorandum; provided that the City shall not agree to a resolution of the grievance until the Union

has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response. Upon request of the grievant, the grievant may be represented at any stage of the grievance procedure by a representative of the Union.

15.2.8 Failure of a unit member to file a grievance over an adverse action which constitutes a “grievance” as defined herein shall not constitute a waiver of other unit members’ rights to file future grievances involving the same or similar adverse actions.

15.2.9 The City and Union may agree to consolidate grievances at Level III and beyond.

15.2.10 All written responses by Management regarding a grievance shall be sent to the grievant, designated union steward, and the Union.

15.3 Procedure

Grievances will be processed in accordance with the following procedures. The City and the Union agree that a written appeal by a permanent employee of discipline imposed by the City under Article 21 of this Memorandum shall proceed directly to Level III, except that grievances of written reprimands and suspensions of one (1) day or less shall begin with Level I.

15.3.1 Level I - Informal Resolution

15.3.1.1 Any unit member who believes he/she has a grievance shall present the grievance orally to the immediate supervisor within ten (10) days after the grievant knew, or reasonably should have known, of the circumstances which form the basis for the grievance. Failure to do so will render the grievance null and void. The immediate supervisor shall hold discussions and attempt to resolve the matter within ten (10) days after the presentation of the grievance. It is the intent of this informal meeting that at least one (1) personal conference be held between the aggrieved unit member and the immediate supervisor.

15.3.2 Level II - Formal Written Grievance

15.3.2.1 If the grievance is not settled during the informal conference and the grievant wishes to press the matter, the grievant shall present the grievance in writing on the appropriate form to the immediate supervisor within ten (10) days after the informal conference. The written information shall include:

- a) a description of the specific grounds of the grievance including names, dates, and places necessary for a complete understanding of the grievance;
- b) a listing of the provisions of this Memorandum which are alleged to have been violated;
- c) a listing of the reasons why the immediate supervisor's proposed resolution of the problem is unacceptable; and
- d) a listing of specific actions requested by the grievant of the City which will remedy the grievance.

15.3.2.2 The immediate supervisor shall communicate the decision to the grievant in writing within ten (10) days after receiving the grievance. If the immediate supervisor does not respond within the time limits, the grievant may appeal to the next level.

15.3.2.3 With the concurrence of the City, a worker or the Union may choose to file the formal grievance initially at Level III (the Department Head) instead of Level II.

15.3.2.4 Within the above time limits either party may request a personal conference.

15.3.3 Level III - Appeal to Department Head

15.3.3.1 If the grievant is not satisfied with the decision at Level II, the grievant may within ten (10) days of the receipt of the decision at Level II appeal the decision on the appropriate form to the department head. This statement shall include a copy of the original grievance and appeal, and a clear, concise statement of the reasons for the appeal.

15.3.3.2 Grievances initially filed at this level challenging discipline imposed by the City under Article 21 of this Memorandum shall be filed in written form and shall include:

- a) name, classification, and supervisor of grievant;
- b) a description of the specific grounds of the grievance including names, dates, and places necessary for a complete understanding of the grievance; and

c) a listing of specific actions requested by the grievant of the City which will remedy the grievance.

15.3.3.3 The department head shall communicate the decision to the grievant within ten (10) days. If the department head does not respond within the time limits provided, the grievant may appeal to the next level.

15.3.3.4 Within the above time limits either party may request a personal conference.

15.3.4 Level IV - Appeal to City Manager

15.3.4.1 If the grievant is not satisfied with the decision at Level III, the grievant may, within ten (10) days of the receipt of the decision at Level III, appeal the decision to the City Manager. The statement shall include a copy of the original grievance, all decisions rendered and a clear and concise statement of the reasons for the appeal.

15.3.4.2 The City Manager shall respond to the grievance in writing within ten (10) days of receipt of the written appeal.

15.3.5 Level V - Arbitration

15.3.5.1 If the grievant is not satisfied with the decision at Level IV, the grievant may within five (5) days of the receipt of the decision submit a request in writing to the Union for arbitration of the dispute. Within fifteen (15) days of the grievant's receipt of the decision at Level IV, the Union shall inform the City of its intent as to whether or not the grievance will be arbitrated. The Union and the City shall attempt to agree upon an arbitrator. If no agreement can be reached, they shall request that the State Conciliation Service supply a panel of five (5) names of persons experienced in hearing grievances involving City workers. Each party shall alternately strike a name until only one (1) name remains. The remaining panel member shall be the arbitrator. The order of striking shall be determined by lot.

15.3.5.2 If either the City or the Union so requests, a separate arbitrator shall be selected to hear the merits of any issue raised regarding the arbitrability of a grievance. No hearing on the merits of the grievance will be conducted until the issue of arbitrability has been decided. The process to be used in selecting an arbitrator shall be as set forth in 15.3.5.1.

- 15.3.5.3 The arbitrator shall, as soon as possible, hear evidence and render a decision on the issue or issues submitted to him. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues by referring to the written grievance and the answers thereto at each step.
- 15.3.5.4 The City and the Union agree that the jurisdiction and authority of the arbitrator so selected and the opinions the arbitrator expresses will be confined exclusively to the interpretation of the express provision or provisions of this Memorandum at issue between the parties. The arbitrator shall have no authority to add to, subtract from, alter, amend, or modify any provisions of this Memorandum or impose any limitations or obligations not specifically provided for under the terms of this Memorandum. The arbitrator shall be without power or authority to make any decision that requires the City or the administration to do an act prohibited by law.
- 15.3.5.5 After a hearing and after both parties have had an opportunity to make written arguments, the arbitrator shall submit in writing to all parties his/her findings and award.
- 15.3.5.6 The arbitrator shall make a final and binding determination.
- 15.3.5.7 The fees and expenses of the arbitrator shall be shared equally by the City and the Union. All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the expense of witnesses called by the other. Either party may request a certified court reporter to record the entire arbitration hearing. The cost of the services of such court reporter shall be paid by the party requesting the reporter or shared by the parties if they both mutually agree. If the arbitrator requests a court reporter, then the costs shall be shared by both parties.

ARTICLE 16: EFFECT ON EXISTING PRACTICES

16.1 Changes in Personnel Rules and Department Regulations

During the term of this Memorandum of Understanding, the parties hereto will meet and confer regarding changes proposed by the City in the City's Personnel Rules and Department Rules and Regulations.

16.2 Effect of Agreement

This Agreement completely supersedes any prior agreements between the parties. It also supersedes any conflicting provision in the City's Personnel Rules.

16.3 Existing Practices

Existing practices and/or benefits which are not referenced in this Memorandum and which are subject to the meet and confer process shall continue without change unless modified subject to the meet and confer process.

16.4 Waiver Clause

Except as provided in Section 16.3, Existing Practices, the workers waive their right to meet and confer during the term of this Agreement on any matter raised during the meeting and conferring which preceded this Agreement.

ARTICLE 17: NONDISCRIMINATION

The City agrees that there shall be no discrimination against any worker in regard to any of the terms and conditions of employment on account of that worker's race, religion, national origin, cohabitation, political activities, age, disability, sex, sexual orientation, Union membership or legitimate Union activities under this Agreement.

ARTICLE 18: MANAGEMENT RIGHTS

18.1 The City hereby retains and reserves unto itself, without limitation, all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the laws of the Constitution of the State of California, and of the United States, including, but not limiting the generality of the foregoing, the right:

18.1.1 To set standards and levels of service;

18.1.2 To determine the procedures and standards of selection for employment and promotions;

18.1.3 To assign workers, including bargaining unit members, to do station maintenance, repair, painting and similar work;

18.1.4 To direct its workers;

18.1.5 To determine the methods and means to relieve its workers from duty because lack of funds or other lawful reasons;

- 18.1.6 To determine the methods, means and numbers and kinds of personnel by which City operations are to be conducted, including the right to contract or subcontract bargaining unit work provided that the City will meet and confer in advance on the impact of subcontracting on work load and safety and any other matter within the scope of representation;
- 18.1.7 To determine methods of financing;
- 18.1.8 To determine size and composition of the work force and allocate and assign work by which the City operations are to be conducted;
- 18.1.9 To determine and change the number of locations, relocations and types of operations, processes and materials to be used in carrying out all City functions;
- 18.1.10 To make all decision relating to merit, necessity or organization of City Service;
- 18.1.11 To discharge, suspend, demote, reprimand, withhold salary increases and benefits, or otherwise discipline workers in accordance with applicable laws;
- 18.1.12 To establish employee performance standards including, but not limited to, quality and standards, and to require compliance therewith;
- 18.1.13 To take necessary actions to carry out its mission in emergencies; and
- 18.1.14 To exercise complete control and discretion over its organization and the technology of performing its work.
- 18.1.15 To take any and all steps necessary to discharge the City's responsibilities to provide for the safety of the public it serves and to provide employees with a safe working environment; provided, however, nothing herein shall preclude the Union from providing input, consulting and/or meeting and conferring with the City as required by law on such safety issues so long as such actions do not prevent the City from discharging these responsibilities.

18.2 The exercise of the foregoing powers, rights, authority, duties, and responsibilities by the City, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of this Memorandum and then only to the extent such specific and express terms

hereof are in conformance with the Constitution and laws of the United States and the Constitution and laws of the State of California.

- 18.3 The exercise by the City through its Council and management representatives of its rights hereunder shall not in any way, directly or indirectly, be subject to any grievance procedure nor subject to meeting and conferring.

ARTICLE 19: CONCERTED ACTIVITIES

- 19.1 As used in this Article 19, “strike or work stoppage” means the concerted failure to report for duty, the willful absence from one’s position, the stoppage of work, or the abstinence in whole or in part from the full, faithful performance of the duties of employment for the purpose of inducing, influencing or coercing a change in the conditions of compensation, or the rights, privileges or obligations of employment.
- 19.2 It is agreed and understood that there will be no strike, work stoppage, slowdown, or refusal to fully and faithfully perform job functions with responsibilities, or any interference with the operations of the City, or any concerted effort designed to improve its bargaining position which interferes with, impedes, or impairs City operations by the Union or by its officers, agents or members. The Union agrees that neither the Union nor its officers, agents or members will, in any manner whatsoever, honor, assist or participate in any picketing activities, sanctions or any other form of interference with City operations by any other non-unit employees or members of other employee associations or groups.
- 19.3 Furthermore, the Union agrees that the provisions in this Article 19 are enforceable by the City in a Court of law. The City may, upon its own election, initiate such court action as it deems appropriate to enjoin or impose damages on the Union, its officers, agents or members for activities referred to herein.
- 19.4 It is further agreed and understood that neither the Union nor its officers, agents, or members shall engage in any boycott, picketing or any other concerted attempts to discourage, impair or negatively affect the businesses of members of the City Council.
- 19.5 Nothing herein shall be deemed to limit the remedies available to the City in dealing with concerted activities as described hereinabove.

ARTICLE 20: SEPARABILITY

If any provision of this Agreement shall be declared void or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect, except that either party to the Agreement may request the other party to meet and confer in regard to amending the Agreement to replace the provisions declared void or unenforceable. However, there will be no obligation on either party to agree on a replacement provision.

ARTICLE 21: DISCIPLINARY ACTION

- 21.1 For just cause, the City has the right to discipline, demote, or discharge permanent workers for unsatisfactory work or conduct. Disciplinary action, if taken must be acted upon within forty-five (45) days of the date of discovery of the basis for the discipline unless the City demonstrates that at the end of the forty-five (45) day period, it was engaged in an active, ongoing investigation of the allegations. In such cases, disciplinary action must be taken within ten (10) days of the completion of the investigation.
- 21.2 Non-probationary workers whose work or conduct is unsatisfactory but not sufficiently deficient to warrant discipline, demotion, or discharge will be given a written notification of unsatisfactory work or conduct and an opportunity to improve. Failure to correct deficiencies and improve to meet standards may result in discipline, demotion or discharge. Reprimands shall not be subject to the arbitration provisions of Article 15, Grievance Procedure.
- 21.3 Notice of disciplinary action must be in writing and served on the worker, the Chief Steward of the Chapter, and the Union, in person or by registered mail prior to the disciplinary action becoming effective. The notice must be filed on a timely basis with the Personnel Officer and included in the worker's personnel file. The notice of disciplinary action shall include:
- 21.3.1 Statement of the nature of the disciplinary action;
 - 21.3.2 Effective date of the action;
 - 21.3.3 Statement of the reasons for the proposed action;
 - 21.3.4 Statement in ordinary and concise language of the act or the omissions upon which the reasons for the proposed disciplinary action are based; and
 - 21.3.5 Copies of any documents or other items of evidence upon which the disciplinary action was fully or in part based.

- 21.3.6 In all cases of disciplinary action, the notice shall include a statement advising the worker of his/her right to grieve such action and the right to Union representation.
- 21.3.7 In cases of demotion, discharge, or suspension of workers in permanent status at the time of the discipline, the notice shall include a statement of the worker's right to respond, either orally, at a meeting requested by the worker, or in writing. The opportunity to respond shall be afforded prior to the action becoming effective, but the worker must respond no later than five (5) days after receipt of notice of disciplinary action. If the worker has been removed from the job during such five (5) days period, the worker must contact the Personnel Division daily. A hearing, if requested, shall be scheduled and held as soon as possible but in no event later than thirty (30) days after receipt of notice of disciplinary action.

ARTICLE 22: TRANSFER

22.1 Definition

- 22.1.1 For purposes of this Article, a "transfer" shall consist of a change in work location of a worker from one work site to another work site within the City. Such a transfer does not encompass the process of assignment of a specific position and responsibilities within the department or work location. A worker assigned to more than one work site shall be considered as being transferred only when moved from one City-wide program to another program. A transfer may be initiated by a worker ("voluntary") or by the City ("administrative").

22.2 Voluntary Transfers as a Result of Posting and Filling Vacancies

- 22.2.1 A "vacancy" is a new position, an opening arising from a resignation, retirement, or termination, any position to which a worker is not assigned or which is not committed for purposes of leaves, unresolved administrative transfers or layoffs.
- 22.2.2 Notices of vacancies shall be posted for at least five (5) working days on the bulletin board in the City's administrative offices. Such notices shall be posted as soon as the City determines that a vacancy exists and shall include the position description, location, and other special requirements. A copy of the vacancy notice shall be forwarded to the Union President and a second copy shall be forwarded to the Union office.
- 22.2.3 The request for transfer will be sent to the Personnel Officer with a copy to the Department Head. A conference shall be held at the

request of the worker or the Personnel Officer in order to discuss the request.

- 22.2.4 For purposes of selection between two or more workers requesting transfer to a vacant position, the City shall consider the training experience, competencies, length of service in the City, past evaluations, and qualifications of each worker.
- 22.2.5 When the City has considered two or more workers requesting a transfer to a vacant position to be relatively equal on the basis of training, experience, competence, past evaluations, and qualifications, the worker with the most City-wide seniority shall be selected for transfer to the vacant position.
- 22.2.6 The City shall notify the worker requesting transfer, in writing, of the City's acceptance or denial of the request. The City shall provide written reasons for not granting the transfer request upon the request of the worker. Transfer requests shall be acted upon prior to filling positions by promotion or outside applicants.
- 22.2.7 Only one (1) voluntary transfer may be granted per worker in any one (1) year period.

22.3 Administrative Transfers

- 22.3.1 An administrative transfer may be initiated by the Personnel Officer or his/her designee and shall be based exclusively on the work related special needs of the City and/or welfare of the workers involved and will not be for punitive or capricious reasons.
- 22.3.2 In the event that circumstances require that a worker be transferred on an administrative basis, the worker and the Union shall be informed of the reason(s) in writing prior to such action and shall be afforded an opportunity to meet with the Personnel Officer regarding the proposed transfer.
- 22.3.3 For purposes of selecting which worker shall be administratively transferred in order to meet the needs of the City, the City shall consider the training, experience, competencies, length of service in the City, past evaluations, qualifications, and current classification of each worker considered. All things being relatively equal, the worker with the least City-wide seniority will be transferred.
- 22.3.4 If total time of service with the City for two (2) or more workers considered equal is the same, then, as between those workers, the transfer will be determined by a lottery.

22.4 Length of Service Defined

- 22.4.1 For the purpose of this Article, “length of service” means all hours in paid status including holiday, vacation, and paid leave, but does not include any hours compensated for overtime or standby, military leave, unpaid illness, unpaid industrial accident leave, or hours served as temporary or contract employee in classification other than the classification from which the worker is being transferred.
- 22.4.2 No seniority credit shall be earned during periods of separation from service with the City, including suspension without pay as a result of disciplinary action.

ARTICLE 23: SAFETY

- 23.1 It is the City’s intention to provide the safest possible equipment and working conditions to the workforce of the City of Menlo Park. Toward that end, the City is committed to making the necessary expenditures to purchase this equipment.
- 23.2 The Union and the City agree to continue to participate in the City Safety Committee.

ARTICLE 24: CONTRACTING SERVICES

The City shall notify the Union at least sixty days in advance of the effective date of the proposed action to contract services and shall, upon request, meet and confer with the Union regarding the contracting out of any work to an independent contractor which results in the elimination of a **filled** bargaining unit position, layoff, or permanently reduces the hours worked by a member of the unit. This provision would also apply if a position was frozen and contract services used to fill the position for more than one annual budget cycle. This provision is not intended to expand upon or contract any rights or obligations already granted or imposed by law. This provision does not mean that the Union is agreeing in advance to anything other than to meet and confer.

ARTICLE 25: FURLOUGHS

The City Council may require up to twenty-one (21) unpaid furlough hours in each fiscal year. Furloughs for employees who work less than full-time or less than a full year shall be prorated on the basis of hours worked as compared to full-time employment. The furloughs shall be implemented in a fair and equitable manner and with sufficient flexibility to accommodate different operational needs which, in turn, may aid in minimizing the impact on employees.

ARTICLE 256: TERM OF AGREEMENT

This Agreement shall remain in full force and effect up to and including ~~October 28, 2006~~ **October 31, 2013**, and thereafter shall continue in effect year by year unless one of the parties notifies the other in writing no earlier than August 30 of any year, and no later than September 22 of any year, of its request to modify, amend, or terminate the Agreement. If the parties enter into subsequent meeting and conferring regarding a successor agreement, the terms and conditions of this Agreement shall remain in effect until a successor Agreement is reached, or until meeting and conferring is concluded.

The terms of this Agreement shall be effective upon the adoption of this Agreement by the City Council except as otherwise provided by specific sections of this Agreement.

Dated _____

City of Menlo Park

Local 521, S.E.I.U., CTW, CLC

MEMORANDUM OF AGREEMENT

In addition to the modifications to the Memorandum of Understanding between Local ~~521715~~, Service Employees International Union, ~~AFL-CIO~~ CTW, CLC and the City of Menlo Park, the parties, having met and conferred agree as follows:

1. To apply for all Departments, except for urgent and compelling reasons, workers who are ill will not be called at home when calling in absent. They shall call daily unless they have submitted a doctors note stating length of absence. They may call in early and leave word with any supervisor stating the following:
 - A. Non-detailed nature of illness.
 - B. Estimated length of absence.
 - C. Any necessary information about work which needs attention during the workers' absence.

This paragraph does not modify the provisions of Section 12.1.3.

2. The parties agree to the following in the Menlo Park Police Department.
 - A. Communication Officers and Police Records Officers will wear uniforms in accordance with the Department's Uniform Policy.
3. The parties agree to the Menlo Park Labor Management Committee as outlined in Appendix D.
4. For workers performing light duty assignments of less than a full work day, a full day of vacation and sick leave will be charged when not related to disability. Informal scheduling accommodation of doctor's appointments/therapy to continue as is.
5. The City agrees to meet and confer with the Union over the job specifications on all unit positions impacted by the need for water distribution and treatment certification and appropriate compensation for such duties.

Dated _____

City of Menlo Park

Local 521, S.E.I.U., CTW, CLC

APPENDIX "A"

CLASSIFICATIONS REPRESENTED BY
LOCAL 521, SERVICE EMPLOYEES INTERNATIONAL UNION, CTW, CLC

ACCOUNTANT

ACCOUNTING ASSISTANT I

ACCOUNTING ASSISTANT II

~~ACCOUNTING TECHNICIAN~~

ADMINISTRATIVE ASSISTANT

ASSISTANT ENGINEER

~~ASSISTANT LITERACY PROGRAM COORDINATOR~~

ASSISTANT PLANNER

ASSOCIATE ENGINEER

ASSOCIATE PLANNER

BUILDING CUSTODIAN I

BUILDING CUSTODIAN II

BUILDING INSPECTOR

~~BUSINESS DEVELOPMENT MANAGER~~ **SPECIALIST**

CHILD CARE TEACHER/TITLE 22

CHILD CARE TEACHER/TITLE 5

CITY SERVICE OFFICER

CODE ENFORCEMENT OFFICER

COMMUNICATIONS OFFICER

COMMUNICATIONS TRAINING OFFICER

COMMUNITY DEVELOPMENT TECHNICIAN

~~COMMUNITY SERVICES SPECIALIST, SENIOR CENTER~~

COMMUNITY SERVICE OFFICER

COMPUTER SUPPORT TECHNICIAN

CONSTRUCTION INSPECTOR

~~CONSTRUCTION SUPERVISOR~~

~~DAY CARE TEACHER/TITLE 5~~

DEVELOPMENT SERVICES TECHNICIAN

ENGINEERING TECHNICIAN I

ENGINEERING TECHNICIAN II

ENVIRONMENTAL PROGRAMS COORDINATOR

EQUIPMENT MECHANIC

FINANCIAL ANALYST

GYMNASTICS INSTRUCTOR

~~HOUSING REHABILITATION/FINANCE SPECIALIST~~

~~JUNIOR ENGINEER~~

LEAD COMMUNICATIONS OFFICER

LIBRARIAN I

LIBRARIAN II

LIBRARY ASSISTANT I

Classifications

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LIBRARY ASSISTANT II
LIBRARY ASSISTANT III
LIBRARY CLERK
LIBRARY PAGE
LITERACY ASSISTANT
MAINTENANCE I-BUILDING MAINTENANCE
MAINTENANCE WORKER I-PARKS
MAINTENANCE WORKER I-STREETS
MAINTENANCE WORKER I-TREES
MAINTENANCE I-WATER
MAINTENANCE II-BUILDING MAINTENANCE
MAINTENANCE WORKER II-PARKS
MAINTENANCE WORKER II-STREETS
MAINTENANCE WORKER II-TREES
MAINTENANCE III-BUILDING MAINTENANCE
MAINTENANCE WORKER III-PARKS
MAINTENANCE WORKER III-STREETS
MAINTENANCE WORKER III-TREES
MAINTENANCE III-WATER
MANAGEMENT ANALYST
~~NETWORK COORDINATOR~~
NIGHT CLERK
OFFICE ASSISTANT I
OFFICE ASSISTANT II
OFFICE ASSISTANT III
PLAN CHECKER
POLICE RECORDS OFFICER
POLICE RECORDS TRAINING OFFICER
~~PRINT SHOP ASSISTANT~~
~~PRINT SHOP COORDINATOR~~
PROGRAM ASSISTANT
PROPERTY AND COURT OFFICER
~~RECEPTIONIST~~
RECREATION AIDE
RECREATION LEADER
RED LIGHT PHOTO ENFORCEMENT FACILITATOR
SECRETARY
~~SENIOR BUILDING INSPECTOR~~
SENIOR ENGINEERING TECHNICIAN
SENIOR LIBRARY PAGE
~~SENIOR POLICE RECORDS OFFICER~~
SENIOR PLANNER

Classifications

Page 3

~~SENIOR PROGRAM CHEF~~

SENIOR RECREATION LEADER

~~SOCIAL SERVICES COORDINATOR~~

TEACHER'S AIDE

~~TECHNICAL SERVICES COORDINATOR~~

~~TRAFFIC ADMINISTRATION/PROPERTY OFFICER~~

TRAFFIC ENGINEERING TECHNICIAN I

TRAFFIC ENGINEERING TECHNICIAN II

TRANSPORTATION DRIVER

TRANSPORTATION ENGINEER

TRANSPORTATION MANAGEMENT COORDINATOR

~~TRANSPORTATION PLANNER~~

WATER QUALITY TECHNICIAN

WATER SERVICE WORKER

"Appendix B"

Pay Ranges for Classified Miscellaneous Personnel
March 25, 2012 through October 31, 2013

Range	Classified Position	Classified Position	Step	Annual	Monthly	Bi-Weekly	Hourly
17.0			A	22,354.80	1,862.90	859.80	10.7475
			B	23,366.51	1,947.21	898.71	11.2339
			C	24,423.78	2,035.31	939.38	11.7422
			D	25,528.88	2,127.41	981.88	12.2735
			E	26,683.90	2,223.66	1,026.30	12.8288
17.5	Library Page Recreation Leader		A	22,821.97	1,901.83	877.77	10.9721
			B	23,854.48	1,987.87	917.48	11.4685
			C	24,933.79	2,077.82	958.99	11.9874
			D	26,062.19	2,171.85	1,002.39	12.5299
			E	27,241.34	2,270.11	1,047.74	13.0968
18.0			A	23,366.51	1,947.21	898.71	11.2339
			B	24,423.78	2,035.31	939.38	11.7422
			C	25,528.88	2,127.41	981.88	12.2735
			D	26,683.90	2,223.66	1,026.30	12.8288
			E	27,891.55	2,324.30	1,072.75	13.4094
18.5			A	23,854.48	1,987.87	917.48	11.4685
			B	24,933.79	2,077.82	958.99	11.9874
			C	26,062.19	2,171.85	1,002.39	12.5299
			D	27,241.34	2,270.11	1,047.74	13.0968
			E	28,473.95	2,372.83	1,095.15	13.6894
19.0			A	24,423.78	2,035.31	939.38	11.7422
			B	25,528.88	2,127.41	981.88	12.2735
			C	26,683.90	2,223.66	1,026.30	12.8288
			D	27,891.55	2,324.30	1,072.75	13.4094
			E	29,153.49	2,429.46	1,121.29	14.0161
19.5			A	24,933.79	2,077.82	958.99	11.9874
			B	26,062.19	2,171.85	1,002.39	12.5299
			C	27,241.34	2,270.11	1,047.74	13.0968
			D	28,473.95	2,372.83	1,095.15	13.6894
			E	29,762.72	2,480.23	1,144.72	14.3090
20.0			A	25,528.88	2,127.41	981.88	12.2735
			B	26,683.90	2,223.66	1,026.30	12.8288
			C	27,891.55	2,324.30	1,072.75	13.4094
			D	29,153.49	2,429.46	1,121.29	14.0161
			E	30,472.62	2,539.39	1,172.02	14.6503

"Appendix B"

Pay Ranges for Classified Miscellaneous Personnel
March 25, 2012 through October 31, 2013

Range	Classified Position	Classified Position	Step	Annual	Monthly	Bi-Weekly	Hourly
20.5			A	26,062.19	2,171.85	1,002.39	12.5299
			B	27,241.34	2,270.11	1,047.74	13.0968
			C	28,473.95	2,372.83	1,095.15	13.6894
			D	29,762.72	2,480.23	1,144.72	14.3090
			E	31,109.31	2,592.44	1,196.51	14.9564
21.0			A	26,683.90	2,223.66	1,026.30	12.8288
			B	27,891.55	2,324.30	1,072.75	13.4094
			C	29,153.49	2,429.46	1,121.29	14.0161
			D	30,472.62	2,539.39	1,172.02	14.6503
			E	31,851.66	2,654.31	1,225.06	15.3133
21.5 Senior Recreation Leader			A	27,241.34	2,270.11	1,047.74	13.0968
			B	28,473.95	2,372.83	1,095.15	13.6894
			C	29,762.72	2,480.23	1,144.72	14.3090
			D	31,109.31	2,592.44	1,196.51	14.9564
			E	32,516.85	2,709.74	1,250.65	15.6331
22.0			A	27,891.55	2,324.30	1,072.75	13.4094
			B	29,153.49	2,429.46	1,121.29	14.0161
			C	30,472.62	2,539.39	1,172.02	14.6503
			D	31,851.66	2,654.31	1,225.06	15.3133
			E	33,292.69	2,774.39	1,280.49	16.0061
22.5			A	28,473.95	2,372.83	1,095.15	13.6894
			B	29,762.72	2,480.23	1,144.72	14.3090
			C	31,109.31	2,592.44	1,196.51	14.9564
			D	32,516.85	2,709.74	1,250.65	15.6331
			E	33,988.03	2,832.34	1,307.23	16.3404
23.0 Recreation Aide			A	29,153.49	2,429.46	1,121.29	14.0161
			B	30,472.62	2,539.39	1,172.02	14.6503
			C	31,851.66	2,654.31	1,225.06	15.3133
			D	33,292.69	2,774.39	1,280.49	16.0061
			E	34,799.02	2,899.92	1,338.42	16.7303
23.5			A	29,762.72	2,480.23	1,144.72	14.3090
			B	31,109.31	2,592.44	1,196.51	14.9564
			C	32,516.85	2,709.74	1,250.65	15.6331
			D	33,988.03	2,832.34	1,307.23	16.3404
			E	35,526.19	2,960.52	1,366.39	17.0799

"Appendix B"

Pay Ranges for Classified Miscellaneous Personnel
March 25, 2012 through October 31, 2013

Range	Classified Position	Classified Position	Step	Annual	Monthly	Bi-Weekly	Hourly
24.0	Transportation Driver		A	30,472.62	2,539.39	1,172.02	14.6503
			B	31,851.66	2,654.31	1,225.06	15.3133
			C	33,292.69	2,774.39	1,280.49	16.0061
			D	34,799.02	2,899.92	1,338.42	16.7303
			E	36,357.78	3,029.81	1,398.38	17.4797
24.5	Senior Library Page Library Clerk		A	31,109.31	2,592.44	1,196.51	14.9564
			B	32,516.85	2,709.74	1,250.65	15.6331
			C	33,988.03	2,832.34	1,307.23	16.3404
			D	35,526.19	2,960.52	1,366.39	17.0799
			E	37,130.29	3,094.19	1,428.09	17.8511
25.0	Teacher's Aide		A	31,851.66	2,654.31	1,225.06	15.3133
			B	33,292.69	2,774.39	1,280.49	16.0061
			C	34,799.02	2,899.92	1,338.42	16.7303
			D	36,357.78	3,029.81	1,398.38	17.4797
			E	37,962.70	3,163.56	1,460.10	18.2513
25.5			A	32,516.85	2,709.74	1,250.65	15.6331
			B	33,988.03	2,832.34	1,307.23	16.3404
			C	35,526.19	2,960.52	1,366.39	17.0799
			D	37,130.29	3,094.19	1,428.09	17.8511
			E	38,787.01	3,232.25	1,491.81	18.6476
26.0	Night Clerk		A	33,292.69	2,774.39	1,280.49	16.0061
			B	34,799.02	2,899.92	1,338.42	16.7303
			C	36,357.78	3,029.81	1,398.38	17.4797
			D	37,962.70	3,163.56	1,460.10	18.2513
			E	39,701.79	3,308.48	1,526.99	19.0874
26.5	Gymnastics Instructor		A	33,988.03	2,832.34	1,307.23	16.3404
			B	35,526.19	2,960.52	1,366.39	17.0799
			C	37,130.29	3,094.19	1,428.09	17.8511
			D	38,787.01	3,232.25	1,491.81	18.6476
			E	40,571.23	3,380.94	1,560.43	19.5054
27.0			A	34,799.02	2,899.92	1,338.42	16.7303
			B	36,357.78	3,029.81	1,398.38	17.4797
			C	37,962.70	3,163.56	1,460.10	18.2513
			D	39,701.79	3,308.48	1,526.99	19.0874
			E	41,538.02	3,461.50	1,597.62	19.9702

"Appendix B"

Pay Ranges for Classified Miscellaneous Personnel
March 25, 2012 through October 31, 2013

Range	Classified Position	Classified Position	Step	Annual	Monthly	Bi-Weekly	Hourly
27.5			A	35,526.19	2,960.52	1,366.39	17.0799
			B	37,130.29	3,094.19	1,428.09	17.8511
			C	38,787.01	3,232.25	1,491.81	18.6476
			D	40,571.23	3,380.94	1,560.43	19.5054
			E	42,453.22	3,537.77	1,632.82	20.4102
28.0			A	36,357.78	3,029.81	1,398.38	17.4797
			B	37,962.70	3,163.56	1,460.10	18.2513
			C	39,701.79	3,308.48	1,526.99	19.0874
			D	41,538.02	3,461.50	1,597.62	19.9702
			E	43,412.30	3,617.69	1,669.70	20.8713
28.5			A	37,130.29	3,094.19	1,428.09	17.8511
			B	38,787.01	3,232.25	1,491.81	18.6476
			C	40,571.23	3,380.94	1,560.43	19.5054
			D	42,453.22	3,537.77	1,632.82	20.4102
			E	44,379.09	3,698.26	1,706.89	21.3361
29.0			A	37,962.70	3,163.56	1,460.10	18.2513
			B	39,701.79	3,308.48	1,526.99	19.0874
			C	41,538.02	3,461.50	1,597.62	19.9702
			D	43,412.30	3,617.69	1,669.70	20.8713
			E	45,391.63	3,782.64	1,745.83	21.8229
29.5	Literacy Assistant Office Assistant I		A	38,787.01	3,232.25	1,491.81	18.6476
			B	40,571.23	3,380.94	1,560.43	19.5054
			C	42,453.22	3,537.77	1,632.82	20.4102
			D	44,379.09	3,698.26	1,706.89	21.3361
			E	46,388.37	3,865.70	1,784.17	22.3021
30.0			A	39,701.79	3,308.48	1,526.99	19.0874
			B	41,538.02	3,461.50	1,597.62	19.9702
			C	43,412.30	3,617.69	1,669.70	20.8713
			D	45,391.63	3,782.64	1,745.83	21.8229
			E	47,445.63	3,953.80	1,824.83	22.8104
30.5			A	40,571.23	3,380.94	1,560.43	19.5054
			B	42,453.22	3,537.77	1,632.82	20.4102
			C	44,379.09	3,698.26	1,706.89	21.3361
			D	46,388.37	3,865.70	1,784.17	22.3021
			E	48,502.48	4,041.87	1,865.48	23.3185

"Appendix B"

Pay Ranges for Classified Miscellaneous Personnel
March 25, 2012 through October 31, 2013

Range	Classified Position	Classified Position	Step	Annual	Monthly	Bi-Weekly	Hourly
31.0			A	41,538.02	3,461.50	1,597.62	19.9702
			B	43,412.30	3,617.69	1,669.70	20.8713
			C	45,391.63	3,782.64	1,745.83	21.8229
			D	47,445.63	3,953.80	1,824.83	22.8104
			E	49,694.53	4,141.21	1,911.33	23.8916
31.5	Child Care Teacher - Title 22		A	42,453.22	3,537.77	1,632.82	20.4102
			B	44,379.09	3,698.26	1,706.89	21.3361
			C	46,388.37	3,865.70	1,784.17	22.3021
			D	48,502.48	4,041.87	1,865.48	23.3185
			E	50,796.72	4,233.06	1,953.72	24.4215
32.0	Program Assistant Office Assistant II		A	43,412.30	3,617.69	1,669.70	20.8713
			B	45,391.63	3,782.64	1,745.83	21.8229
			C	47,445.63	3,953.80	1,824.83	22.8104
			D	49,694.53	4,141.21	1,911.33	23.8916
			E	51,988.77	4,332.40	1,999.57	24.9946
32.5	Library Assistant I		A	44,379.09	3,698.26	1,706.89	21.3361
			B	46,388.37	3,865.70	1,784.17	22.3021
			C	48,502.48	4,041.87	1,865.48	23.3185
			D	50,796.72	4,233.06	1,953.72	24.4215
			E	53,135.26	4,427.94	2,043.66	25.5458
33.0			A	45,391.63	3,782.64	1,745.83	21.8229
			B	47,445.63	3,953.80	1,824.83	22.8104
			C	49,694.53	4,141.21	1,911.33	23.8916
			D	51,988.77	4,332.40	1,999.57	24.9946
			E	54,417.79	4,534.82	2,092.99	26.1624
33.5			A	46,388.37	3,865.70	1,784.17	22.3021
			B	48,502.48	4,041.87	1,865.48	23.3185
			C	50,796.72	4,233.06	1,953.72	24.4215
			D	53,135.26	4,427.94	2,043.66	25.5458
			E	55,654.14	4,637.85	2,140.54	26.7568
34.0	Building Custodian I Office Assistant III Accounting Assistant I Child Care Teacher - Title 5		A	47,445.63	3,953.80	1,824.83	22.8104
			B	49,694.53	4,141.21	1,911.33	23.8916
			C	51,988.77	4,332.40	1,999.57	24.9946
			D	54,417.79	4,534.82	2,092.99	26.1624
			E	56,936.26	4,744.69	2,189.86	27.3732

"Appendix B"

Pay Ranges for Classified Miscellaneous Personnel
March 25, 2012 through October 31, 2013

Range	Classified Position	Classified Position	Step	Annual	Monthly	Bi-Weekly	Hourly
34.5	City Service Officer	Maintenance I - Trees	A	48,502.48	4,041.87	1,865.48	23.3185
	Library Assistant II	Maintenance I - Water	B	50,796.72	4,233.06	1,953.72	24.4215
	Maintenance I - Community Services		C	53,135.26	4,427.94	2,043.66	25.5458
	Maintenance I - Parks		D	55,654.14	4,637.85	2,140.54	26.7568
	Maintenance I - Streets		E	58,271.41	4,855.95	2,241.21	28.0151
35.0			A	49,694.53	4,141.21	1,911.33	23.8916
			B	51,988.77	4,332.40	1,999.57	24.9946
			C	54,417.79	4,534.82	2,092.99	26.1624
			D	56,936.26	4,744.69	2,189.86	27.3732
			E	59,597.41	4,966.45	2,292.21	28.6526
35.5	Maintenance I - Building Maintenance		A	50,796.72	4,233.06	1,953.72	24.4215
			B	53,135.26	4,427.94	2,043.66	25.5458
			C	55,654.14	4,637.85	2,140.54	26.7568
			D	58,271.41	4,855.95	2,241.21	28.0151
			E	60,969.58	5,080.80	2,344.98	29.3123
36.0	Accounting Assistant II		A	51,988.77	4,332.40	1,999.57	24.9946
	Building Custodian II		B	54,417.79	4,534.82	2,092.99	26.1624
	Secretary		C	56,936.26	4,744.69	2,189.86	27.3732
			D	59,597.41	4,966.45	2,292.21	28.6526
			E	62,393.55	5,199.46	2,399.75	29.9969
36.5	Library Assistant III		A	53,135.26	4,427.94	2,043.66	25.5458
	Maintenance II - Parks		B	55,654.14	4,637.85	2,140.54	26.7568
	Maintenance II - Streets		C	58,271.41	4,855.95	2,241.21	28.0151
	Maintenance II - Trees		D	60,969.58	5,080.80	2,344.98	29.3123
	Police Records Officer		E	63,863.49	5,321.96	2,456.29	30.7036
37.0	Community Development Technician		A	54,417.79	4,534.82	2,092.99	26.1624
	Development Services Technician		B	56,936.26	4,744.69	2,189.86	27.3732
	Water Service Worker		C	59,597.41	4,966.45	2,292.21	28.6526
			D	62,393.55	5,199.46	2,399.75	29.9969
			E	65,325.10	5,443.76	2,512.50	31.4063
37.5	Community Service Officer		A	55,654.14	4,637.85	2,140.54	26.7568
	Contract Specialist		B	58,271.41	4,855.95	2,241.21	28.0151
	Maintenance II - Building Maintenance		C	60,969.58	5,080.80	2,344.98	29.3123
	Police Records Training Officer		D	63,863.49	5,321.96	2,456.29	30.7036
	Property and Court Officer		E	66,928.99	5,577.42	2,574.19	32.1774

"Appendix B"

Pay Ranges for Classified Miscellaneous Personnel
March 25, 2012 through October 31, 2013

Range	Classified Position	Classified Position	Step	Annual	Monthly	Bi-Weekly	Hourly
38.0	Librarian I		A	56,936.26	4,744.69	2,189.86	27.3732
			B	59,597.41	4,966.45	2,292.21	28.6526
			C	62,393.55	5,199.46	2,399.75	29.9969
			D	65,325.10	5,443.76	2,512.50	31.4063
			E	68,398.30	5,699.86	2,630.70	32.8838
38.5	Engineering Technician I Traffic Engineering Technician I		A	58,271.41	4,855.95	2,241.21	28.0151
			B	60,969.58	5,080.80	2,344.98	29.3123
			C	63,863.49	5,321.96	2,456.29	30.7036
			D	66,928.99	5,577.42	2,574.19	32.1774
			E	70,092.88	5,841.07	2,695.88	33.6985
39.0	Administrative Assistant		A	59,597.41	4,966.45	2,292.21	28.6526
			B	62,393.55	5,199.46	2,399.75	29.9969
			C	65,325.10	5,443.76	2,512.50	31.4063
			D	68,398.30	5,699.86	2,630.70	32.8838
			E	71,614.82	5,967.90	2,754.42	34.4302
39.5	Deputy City Clerk	Maintenance III - Trees	A	60,969.58	5,080.80	2,344.98	29.3123
		Equipment Mechanic	B	63,863.49	5,321.96	2,456.29	30.7036
		Maintenance III - Building Maintenance	C	66,928.99	5,577.42	2,574.19	32.1774
		Maintenance III - Parks	D	70,092.88	5,841.07	2,695.88	33.6985
		Maintenance III - Streets	E	73,399.46	6,116.62	2,823.06	35.2882
40.0	Computer Support Technician Red Light Photo Enforcement Facilitator		A	62,393.55	5,199.46	2,399.75	29.9969
			B	65,325.10	5,443.76	2,512.50	31.4063
			C	68,398.30	5,699.86	2,630.70	32.8838
			D	71,614.82	5,967.90	2,754.42	34.4302
			E	75,048.27	6,254.02	2,886.47	36.0809
40.5	Librarian II		A	63,863.49	5,321.96	2,456.29	30.7036
			B	66,928.99	5,577.42	2,574.19	32.1774
			C	70,092.88	5,841.07	2,695.88	33.6985
			D	73,399.46	6,116.62	2,823.06	35.2882
			E	76,929.42	6,410.79	2,958.82	36.9853
41.0	Engineering Technician II Traffic Engineering Technician II Water Quality Technician		A	65,325.10	5,443.76	2,512.50	31.4063
			B	68,398.30	5,699.86	2,630.70	32.8838
			C	71,614.82	5,967.90	2,754.42	34.4302
			D	75,048.27	6,254.02	2,886.47	36.0809
			E	78,624.00	6,552.00	3,024.00	37.8000

"Appendix B"

Pay Ranges for Classified Miscellaneous Personnel
March 25, 2012 through October 31, 2013

Range	Classified Position	Classified Position	Step	Annual	Monthly	Bi-Weekly	Hourly
41.5	Accountant		A	66,928.99	5,577.42	2,574.19	32.1774
	Code Enforcement Officer		B	70,092.88	5,841.07	2,695.88	33.6985
	Communications Officer		C	73,399.46	6,116.62	2,823.06	35.2882
			D	76,929.42	6,410.79	2,958.82	36.9853
			E	80,595.84	6,716.32	3,099.84	38.7480
42.0	Assistant Planner		A	68,398.30	5,699.86	2,630.70	32.8838
			B	71,614.82	5,967.90	2,754.42	34.4302
			C	75,048.06	6,254.01	2,886.46	36.0808
			D	78,624.00	6,552.00	3,024.00	37.8000
			E	82,380.48	6,865.04	3,168.48	39.6060
42.5	Communications Training Officer		A	70,092.88	5,841.07	2,695.88	33.6985
	Senior Engineering Technician		B	73,399.46	6,116.62	2,823.06	35.2882
			C	76,929.42	6,410.79	2,958.82	36.9853
			D	80,595.84	6,716.32	3,099.84	38.7480
			E	84,449.25	7,037.44	3,248.05	40.6006
43.0			A	71,614.82	5,967.90	2,754.42	34.4302
			B	75,048.27	6,254.02	2,886.47	36.0809
			C	78,624.00	6,552.00	3,024.00	37.8000
			D	82,380.48	6,865.04	3,168.48	39.6060
			E	86,321.66	7,193.47	3,320.06	41.5008
43.5	Building Inspector		A	73,399.46	6,116.62	2,823.06	35.2882
	Construction Inspector		B	76,929.42	6,410.79	2,958.82	36.9853
	Financial Analyst		C	80,595.84	6,716.32	3,099.84	38.7480
	Lead Communications Officer		D	84,449.25	7,037.44	3,248.05	40.6006
	Management Analyst		E	88,481.12	7,373.43	3,403.12	42.5390
44.0	Associate Planner		A	75,048.27	6,254.02	2,886.47	36.0809
	Transportation Management Coordinator		B	78,624.00	6,552.00	3,024.00	37.8000
			C	82,380.48	6,865.04	3,168.48	39.6060
			D	86,321.66	7,193.47	3,320.06	41.5008
			E	90,453.58	7,537.80	3,478.98	43.4873
44.5	Assistant Engineer		A	76,929.42	6,410.79	2,958.82	36.9853
			B	80,595.84	6,716.32	3,099.84	38.7480
			C	84,449.25	7,037.44	3,248.05	40.6006
			D	88,481.12	7,373.43	3,403.12	42.5390
			E	92,695.62	7,724.63	3,565.22	44.5652

"Appendix B"

Pay Ranges for Classified Miscellaneous Personnel
March 25, 2012 through October 31, 2013

Range	Classified Position	Classified Position	Step	Annual	Monthly	Bi-Weekly	Hourly
45.0			A	78,624.00	6,552.00	3,024.00	37.8000
			B	82,380.48	6,865.04	3,168.48	39.6060
			C	86,321.66	7,193.47	3,320.06	41.5008
			D	90,453.58	7,537.80	3,478.98	43.4873
			E	94,765.22	7,897.10	3,644.82	45.5602
45.5			A	80,595.84	6,716.32	3,099.84	38.7480
			B	84,449.25	7,037.44	3,248.05	40.6006
			C	88,481.12	7,373.43	3,403.12	42.5390
			D	92,695.62	7,724.63	3,565.22	44.5652
			E	97,193.82	8,099.49	3,738.22	46.7278
46.0	Senior Building Inspector		A	82,380.48	6,865.04	3,168.48	39.6060
	Senior Planner		B	86,321.66	7,193.47	3,320.06	41.5008
	Transportation Planner		C	90,453.58	7,537.80	3,478.98	43.4873
			D	94,765.22	7,897.10	3,644.82	45.5602
			E	99,343.50	8,278.63	3,820.90	47.7613
46.5			A	84,449.25	7,037.44	3,248.05	40.6006
			B	88,481.12	7,373.43	3,403.12	42.5390
			C	92,695.62	7,724.63	3,565.22	44.5652
			D	97,193.82	8,099.49	3,738.22	46.7278
			E	101,862.80	8,488.57	3,917.80	48.9725
47.0	Associate Engineer		A	86,321.66	7,193.47	3,320.06	41.5008
	Plan Checker		B	90,453.58	7,537.80	3,478.98	43.4873
			C	94,765.22	7,897.10	3,644.82	45.5602
			D	99,343.50	8,278.63	3,820.90	47.7613
			E	104,156.42	8,679.70	4,006.02	50.0752
47.5			A	88,481.12	7,373.43	3,403.12	42.5390
			B	92,695.62	7,724.63	3,565.22	44.5652
			C	97,193.82	8,099.49	3,738.22	46.7278
			D	101,862.80	8,488.57	3,917.80	48.9725
			E	106,774.10	8,897.84	4,106.70	51.3337
48.0	Transportation Engineer		A	90,453.58	7,537.80	3,478.98	43.4873
			B	94,765.22	7,897.10	3,644.82	45.5602
			C	99,343.50	8,278.63	3,820.90	47.7613
			D	104,156.42	8,679.70	4,006.02	50.0752
			E	109,202.70	9,100.23	4,200.10	52.5013

"Appendix B"

Pay Ranges for Classified Miscellaneous Personnel
March 25, 2012 through October 31, 2013

Range	Classified Position	Classified Position	Step	Annual	Monthly	Bi-Weekly	Hourly
48.5			A	92,695.62	7,724.63	3,565.22	44.5652
			B	97,193.82	8,099.49	3,738.22	46.7278
			C	101,862.80	8,488.57	3,917.80	48.9725
			D	106,774.10	8,897.84	4,106.70	51.3337
			E	111,909.20	9,325.77	4,304.20	53.8025
49.0			A	94,765.22	7,897.10	3,644.82	45.5602
			B	99,343.50	8,278.63	3,820.90	47.7613
			C	104,156.42	8,679.70	4,006.02	50.0752
			D	109,202.70	9,100.23	4,200.10	52.5013
			E	114,524.18	9,543.68	4,404.78	55.0597
49.5			A	97,193.82	8,099.49	3,738.22	46.7278
			B	101,862.80	8,488.57	3,917.80	48.9725
			C	106,774.10	8,897.84	4,106.70	51.3337
			D	111,909.20	9,325.77	4,304.20	53.8025
			E	117,330.93	9,777.58	4,512.73	56.4091
50.0			A	99,343.50	8,278.63	3,820.90	47.7613
			B	104,156.42	8,679.70	4,006.02	50.0752
			C	109,202.70	9,100.23	4,200.10	52.5013
			D	114,524.18	9,543.68	4,404.78	55.0597
			E	120,072.99	10,006.08	4,618.19	57.7274
50.5			A	101,862.80	8,488.57	3,917.80	48.9725
			B	106,774.10	8,897.84	4,106.70	51.3337
			C	111,909.20	9,325.77	4,304.20	53.8025
			D	117,330.93	9,777.58	4,512.73	56.4091
			E	123,015.78	10,251.31	4,731.38	59.1422
51.0			A	104,156.42	8,679.70	4,006.02	50.0752
			B	109,202.70	9,100.23	4,200.10	52.5013
			C	114,524.18	9,543.68	4,404.78	55.0597
			D	120,072.99	10,006.08	4,618.19	57.7274
			E	125,890.75	10,490.90	4,841.95	60.5244
51.5			A	106,774.10	8,897.84	4,106.70	51.3337
			B	111,909.20	9,325.77	4,304.20	53.8025
			C	117,330.93	9,777.58	4,512.73	56.4091
			D	123,015.78	10,251.31	4,731.38	59.1422
			E	128,975.81	10,747.98	4,960.61	62.0076

"Appendix B"

Pay Ranges for Classified Miscellaneous Personnel
 March 25, 2012 through October 31, 2013

Range	Classified Position	Classified Position	Step	Annual	Monthly	Bi-Weekly	Hourly
52.0			A	109,202.70	9,100.23	4,200.10	52.5013
			B	114,524.18	9,543.68	4,404.78	55.0597
			C	120,072.99	10,006.08	4,618.19	57.7274
			D	125,890.75	10,490.90	4,841.95	60.5244
			E	131,989.73	10,999.14	5,076.53	63.4566
52.5			A	111,909.20	9,325.77	4,304.20	53.8025
			B	117,330.93	9,777.58	4,512.73	56.4091
			C	123,015.78	10,251.31	4,731.38	59.1422
			D	128,975.81	10,747.98	4,960.61	62.0076
			E	135,224.75	11,268.73	5,200.95	65.0119

APPENDIX "C-1"

CITY OF MENLO PARK DENTAL PLAN

ELIGIBLE EMPLOYEES:

All present full-time salaried employees are eligible to participate in the plan.

Newly hired employees are eligible to participate in the plan following six months of continuous employment.

DEPENDENTS:

Dependents will be covered by the plan only if there should be sufficient funds to pay 100% of allowable employees claims.

Dependents shall be defined under this program as the employee's spouse and his/her children up to the age to ~~23~~ **26** provided they are more than 50% dependent upon the employee for support.

DOMESTIC PARTNERS:

Workers who wish to have domestic partners covered under the dental plan may do so after filing the "Declaration of Domestic Partnership" form with the California Secretary of State and complying with any other requirement necessary to qualify for domestic partner health benefits under the CalPERS health program. It is understood that the benefits provided as a result of covering domestic partners may be taxable, and that the City will administer the program in accordance with State and Federal Tax regulations.

MAXIMUM COVERAGE:

For each six-month period the employee shall be limited to a maximum coverage of ~~\$1,400.00~~ **\$1,500.00** and each dependent or domestic partner shall be limited to ~~\$700.00~~ **\$750.00** coverage. Payments on claims will be based upon standard fees as determined by the dental committee.

REQUEST FOR REIMBURSEMENT:

A City of Menlo Park Dental Reimbursement Form must be completed by the employee's dentist indicating the type of service before the claim will be approved for reimbursement by the City. These forms are available through the Personnel Division. The forms should be returned to Personnel at the completion of treatment.

TERMINATION OF INSURANCE:

When the employee terminates with the City, his/her dental insurance ceases. Any outstanding claims up to the date of termination will be considered for payment.

COVERAGE

- Routine office visits and oral examinations, but not including more than one such examination of the same Covered Person in any six-month period.
- Fluoride or other prophylaxis treatments
- Dental X-Rays
- Extraction
- Teeth cleaning
- Oral surgery, including excision of impacted teeth
- Crown, bridges, except as specified under “exclusions and limitations”
- Orthodontic care, treatment, services and supplies
- Anesthetics administered in connection with oral surgery or other covered dental services
- Fillings
- Treatment of periodontal and other diseases of the gums and tissues of the mouth
- Endodontic treatment, including root canal therapy
- Initial installation of full or partial dentures or fixed bridgework to replace one or more natural teeth extracted while insured
- Replacement of an existing partial or full removable denture or fixed bridgework to replace extracted natural teeth; but only if evidence satisfactory to the City is presented that:
 - a. The replacement or addition of teeth is required to replace one or more additional natural teeth extracted while insured under the plan; or

- b. The existing denture or bridgework was installed at least 5 years prior to its replacement and that the existing denture or bridgework cannot be made serviceable; or
 - c. The existing denture is an immediate temporary denture and replacement by a permanent denture is required, and takes place within 12 months from the date of installation of the temporary denture
- Replacement of a lost or stolen prosthetic device or bridgework
 - Repair or recementing of crowns, inlays and fixed bridgework
 - Repair or relining of dentures
 - Other covered charges as determined by the Dental Committee

EXCLUSIONS AND LIMITATIONS

Covered dental expenses will not include charges:

- For any dental work covered under a Major Medical Expense Plan
- Incurred because of an accidental bodily injury which arises out of or in the course of employment, or a sickness entitling to the insured to benefits under the Workers' Compensation Act or similar legislation
- Incurred in a Veteran's Hospital by the hospital or by a dentist employed by the hospital
- Which are primarily for cosmetic purposes
- Incurred as a result or act of war, declared or undeclared
- Incurred for the initial installation of dentures and bridgework when such charges are incurred for replacement of congenitally missing teeth, or for replacement of natural teeth all of which were lost when the employee was not insured under the plan
- For space maintainers
- Incurred as a result of a need for prosthetic devices including bridges and crowns and the fitting thereof which were ordered while the employee was not insured under the plan, or which were delivered after termination of insurance
- Not found to be valid upon verification with the dentist rendering the service

HOW IT WORKS

The City of Menlo Park has agreed to contribute to a dental fund a monthly amount per employee. Accumulated funds will be used to reimburse employees for dental expenses they have incurred during a particular six month period. Any excess of funds shall be rolled over to the next period.

Example: If the fund contribution during the six-month period exceeds the claims received

7-1-2007	Fund	Claims
to	Contribution	Received
12-31-2007	\$40,000	\$30,000

then the employee will be reimbursed 100% of his dental bill and his dependents' coverage will be as follows:

Remaining	Claims
in	Received
Fund	\$30,000
\$10,000	

then the employee will be reimbursed 33% of the total bill for his dependents or domestic partner.

Example: If the fund contribution does not exceed the claims received

7-1-2007	Fund	Claims
to	Contribution	Received
12-31-2007	\$40,000	\$60,000

then the employee will be reimbursed 66% of his total dental bills and would not be reimbursed for any of his dependents' or domestic partners' bills.

In both examples above, the amount and nature of claims by an employee and his dependents will be subject to limitations covered in the plan outline.

FORMS PROCEDURE

1. Obtain dental forms from the Personnel Division.
2. Submit the form to your dentist for his completion.
3. At the completion of your dental work or near the end of the reimbursement period, sign the form for that work which has been completed. Your dentist will also need to sign the form. Please return the form to the Personnel Division.

APPENDIX "C-2"

CITY OF MENLO PARK VISION PLAN

ELIGIBLE EMPLOYEES:

All present full-time or part-time permanent employees who are represented by S.E.I.U. and their dependents or domestic partners are eligible to participate in the vision plan.

Newly hired employees are eligible to participate in the vision plan after six months of continuous employment.

MAXIMUM COVERAGE:

For each one year period the employee shall be limited to a maximum coverage of \$600.00 for full-time, \$450.00 for three-quarter time and \$300.00 for half-time employees. For each one year period the worker's dependent or domestic partner shall be limited to a maximum coverage of \$300.00 for a full-time worker's dependent or domestic partner, \$225.00 for a three-quarter worker's dependent or domestic partner, and \$150.00 for a half-time worker's dependent or domestic partner. The maximum coverage shall be in addition to the maximum coverage contained in the Dental Plan. Payments on claims will be based upon standard fees.

REQUEST FOR REIMBURSEMENT:

A City of Menlo Park S.E.I.U. Employees' Vision Claim Form must be completed by the employee indicating the type of service before the claim will be approved for reimbursement by the City. These forms are available through the Personnel Division. The forms should be returned to Personnel at the completion of treatment, and accompanied by a receipt from a qualified optometrist, ophthalmologist or optician. An accepted and properly completed request for reimbursement form will be eligible for prorated reimbursement within the one year period in which the vision care was performed.

TERMINATION OF INSURANCE:

When the employee terminates with the City, his/her vision insurance ceases. Any outstanding claims up to the date of termination will be considered for payment.

COVERAGE

- Routine eye examinations by an optometrist or ophthalmologist, but not including more than one such examination of the same Covered Person in any six-month period

- Eyeglasses, including lenses and frames
- Hard or soft contact lenses
- Other covered charges as determined appropriate

EXCLUSIONS AND LIMITATIONS

Covered vision expenses will not include charges:

- For any eye care covered under the employee's regular medical or health plan
- For noncorrective sunglasses, unless required for medical reasons
- For industrial and athletic safety frames and lenses
- For lens adornment, such as engraving and jewelry
- Incurred because of an accidental bodily injury which arises out of or in the course of employment, or a sickness entitling the insured to benefits under the Workers' Compensation Act or similar legislation
- Incurred in a Veteran's Hospital by the hospital or by an optometrist or ophthalmologist employed by the hospital
- Incurred as a result of act of war, declared or undeclared
- Not found to be valid upon verification with the optometrist, ophthalmologist or optician rendering the service

FORMS PROCEDURE

1. Obtain a Vision Claim form from the Personnel Division.
2. Complete the form and submit it with receipts to the Personnel Division.

APPENDIX "D"

Menlo Park Labor Management Committee Goal

GOAL

The Union and Management have a sincere desire to maintain and improve their progressive, mature and cooperative labor relations/personnel relationship throughout the length of the contract.

MEETINGS

In order to facilitate this, the parties agree to meet as necessary to discuss work and personnel/labor relations related issues of interest to either the workers or management. These meetings shall not replace informal grievance meetings nor the responsibilities of the parties to meet and confer pursuant to the law and the agreement. However topics may include preliminary discussions of matters which may later develop into more formal concerns to be dealt with in official forums.

PARTICULARS

In attendance will be representatives from the City of Menlo Park, as determined by the issues to be discussed. A Union staff person and three members selected by the union shall represent the workers. Additional department heads, members or consultants may be included as necessary.

Agenda shall be set in advance and mutually agreed to except that there shall be a regular item for either party to confirm or dispel rumors in labor relations/personnel topics since the last meeting.

Additional meetings may be set with mutual agreement.

Minutes shall be taken with each side alternately taking responsibility for taking and reproducing them. Confidential personal issues shall be discussed off the record and summarized in the minutes.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MENLO PARK AND THE SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU), LOCAL 521

WHEREAS, the City of Menlo Park and representatives from the Service Employee International Union (SEIU), Local 521 have been meeting in accordance with the Meyers-Melius-Brown Act in an effort to negotiate an agreement; and

WHEREAS, a tentative agreement has been approved by a majority vote of the SEIU general membership; and

WHEREAS, the tentative agreement represents a balanced approach to restructuring employee benefits while remaining competitive in recruiting and retaining well-trained, professional management employees.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Menlo Park does hereby approve a Memorandum of Understanding with the Service Employee International Union (SEIU), Local 521 for the period beginning March 25, 2012 through October 31, 2013.

PASSED AND ADOPTED at a regular meeting of the Menlo Park City Council on the twenty-seventh day of March, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Menlo Park on this twenty-seventh day of March, 2012.

Margaret S. Roberts, MMC
City Clerk

APPENDIX “E”

[FMLA, CFRA Notices]



COMMUNITY SERVICES DEPARTMENT

Council Meeting Date: March 27, 2012
Staff Report #: 12-054

Agenda item #: F-2

REGULAR BUSINESS: Adopt a Resolution of the City Council of the City of Menlo Park of its Finding and Intention to Sell that Certain Real Property Located Behind Properties Fronting on the North Side of Terminal Avenue, Consisting of the Beechwood School Property and Vacant Land Between the School and Menlo Park Fire Protection District Station No. 77 and South of the Joint Powers Authority Owned Railroad Right Of Way, and 297 Terminal Avenue to the California Family Foundation Pursuant to Government Code Section 37420 et seq.

RECOMMENDATION

Staff recommends Council adopt the attached resolution (Attachment A) of its finding and intention to sell the City-owned property referred to as the "Terminal Avenue property" as well as property located at 297 Terminal Avenue to California Family Foundation for use by Beechwood School pursuant to Government Code Section 37420 et. seq.

BACKGROUND

In July 2001, Peninsula Habitat for Humanity (Habitat) first contacted City staff about possible acquisition of a 1.5 acre property located behind the residences on the north side of Terminal Avenue, between Beechwood School and Menlo Park Fire District Station No. 77. In October of that year, Habitat purchased 297 Terminal Avenue to provide access to the landlocked property and in November, 2001 the Community Development Agency approved an Exclusive Negotiating Rights Agreement (ENRA) with Habitat for the Terminal Avenue property with renewals on April 23, 2002; May 20, 2003; and November 16, 2004.

The ENRA was allowed to lapse in 2007 when Habitat encountered financing difficulties that threatened the future of the project. As a part of its Below Market Rate (BMR) commitment, however, SummerHill Homes worked with City staff to dedicate its BMR in-lieu contribution to the Terminal Avenue project, including pre-construction and construction expenses. SummerHill also provided technical assistance to Habitat to help them address specific issues as they arose. In addition, the Community

Development Agency undertook environmental remediation needed on the site at a cost of approximately \$1.23 million (including consulting fees, staff time and construction contract) in order to permit its use for residential or school uses (completed in 2008). The clean-up of the site would have been required, regardless of the eventual use of the site, once the problem was identified.

Over the past several years, as the Habitat project took more definitive shape, there was general opposition to development of housing at the Terminal Avenue site from some members of the Belle Haven community. Some community opinion suggested that use of the site as an expansion opportunity for the Beechwood School would provide the most benefit to the area. In the late summer of 2010, Habitat requested that some conclusion be reached concerning future use of the site so that it could focus its efforts toward other opportunities if development of the Terminal Avenue site was not viable. Just prior to an October 2010 City Council Study Session on Housing, the Beechwood School, through a letter from Richard Jacobsen, Beechwood School Board Chair, expressed an interest in purchasing the entire site, assuming that a reasonable and fair market price could be determined. At the October 2010 Council meeting, representatives of the Belle Haven Neighborhood Association expressed their support for a housing project along Hamilton Avenue that could encompass between 30 to 35 units per acre based on the City's willingness to sell the Terminal site to Beechwood School for the purpose of expanding the school.

At the time, Council also appointed a sub-committee to work with the community and Habitat to try to come to some common ground concerning potential housing development on the site. The effort prompted a further collection of comments from the community at a later Council meeting reiterating their desire that the property be used for expansion of the Beechwood School, as well as a written request from Beechwood School that the City consider selling the entire site to the School for their planned expansion.

Beechwood School, through the California Family Foundation, has indicated that its interest in acquiring the property is to endow the long-term operation of the School and improve the Foundation's ability to successfully solicit funding commitments for future capital improvements for a permanent school at the location. Currently, the School operates out of temporary modular structures that the Foundation would like to replace with permanent buildings.

In 1986 the California Family Foundation entered into a three-year lease for their current site for \$1 per year. The Foundation installed the necessary infrastructure and improvements and began operating a kindergarten and first grade class in 1987, adding one grade level and other buildings each year through 1993. Since that time, the City has granted numerous extensions to the lease as well as expansions of the land area as needed. In addition to the school site, the Foundation owns additional housing units on Terminal Avenue that are currently leased through the Foundation's low-income housing program.

In an April 29, 2011 letter to the City Manager, Habitat informed the City that they were no longer considering development at the site and requested the City purchase the home at 297 Terminal Avenue that was purchased for access. The original ENRA required that if the development process terminated without resulting in an executed development agreement, the City agreed to purchase 297 Terminal Avenue for \$481,590 (Habitat's purchase price). In this correspondence, Habitat also expressed a continued interest in finding a viable project in Menlo Park that would provide an opportunity to address lower income housing needs of Menlo Park residents and workers. Staff plans to continue to pursue opportunities in the R-3 zoning district areas near downtown or close to the train station suitable for development of a small number of units. Funding earmarked for Habitat from the SummerHill/Lane Woods development (\$2,224,375) could be used toward such an effort and Habitat has expressed interest in any opportunities that can be identified, or the funds can be used for other affordable housing opportunities.

At a May 10, 2011 Study Session, Council approved moving forward with negotiations with Beechwood School for sale of the Terminal Avenue site. The initial step in the negotiation process included common understandings among City staff, the appraisal firm awarded the appraisal contract, and representatives from Beechwood School/California Family Foundation related to the assumptions to be included in the appraisal of the property. The appraisal was completed in August of 2011 and after some negotiations with representatives from Beechwood School/California Family Foundation, the parties determined that a fair value for the school site is \$915,000, with the fair market value of 297 Terminal Avenue of \$340,000, for a total fair market value/purchase price of \$1,255,000. [This reflects an increase over the appraised value of \$125,000 based on a revision of the assumptions in the appraisal.]

On July 19, 2011, Council approved the use of BMR funds for the purchase of 297 Terminal Avenue from Habitat and completed the purchase on December 14, 2011.

The City is currently in the process of completing a survey of the property and is preparing a parcel map and associated easements for the sale of the property to the California Family Foundation. In addition, the City is preparing a General Plan map amendment and a Zoning map amendment (rezoning) for the School Site and the Fire Station. The General Plan land use designation would change from Medium Density Residential to Low Density Residential for the School Site and Public Facilities for the Fire Station. The zoning would change from U (Unclassified) to Single Family Urban Residential (R-1-U) District for the School Site and Public Facilities (PF) District for the Fire Station. The General Plan Map Amendment and rezoning requires environmental review.

Prior to the sale of the property, California Government Code Section 37420 et. seq. requires that when the City Council finds that the public interest and convenience require the sale of City-owned property, the City Council may adopt a resolution stating such finding and intention to sell the property. The resolution shall fix a time for hearing protests to the sale of the property, provide for publication of notice of the hearing, fix

the time when the City Council will take final action regarding the sale of the property, and contain an accurate description of the property to be sold. At any time prior to final action, any interested person may protest the proposed sale. If no protests are received or the City Council overrules the protests by a four-fifths votes of its members, it may proceed with the sale.

ANALYSIS

Public interest and convenience require the sale of the property. Beechwood School would like to expand and build a permanent campus on the Terminal Avenue site which is adjacent to their current location. Community input strongly suggests that a Beechwood expansion would be an appropriate use of the site and further an important neighborhood goal to improve education opportunities in the neighborhood. The school expressed formal interest in purchasing the site in late 2010.

The City Attorney has prepared a Purchase and Sale Agreement for the sale of the property consisting of the existing Beechwood School Site, the vacant land between Beechwood School and the Fire Station at 1467 Chilco Street, and 297 Terminal Avenue. The total purchase price payable to the City would be \$1,255,000. In order to complete the sale, the City will need to approve and record a parcel map to create the school site parcel; will need to amend the General Plan and rezone the school site parcel to R-1-U; and will need to create an easement for ingress, egress and parking for the school site across the Onetta Harris Community Center parking lot, and a parking lot maintenance agreement for the sharing of maintenance costs for the parking lot and access road. The Agreement includes an option for the City to repurchase the property for the price paid/received in the event a new school is not substantially completed within five years of the close of escrow. The City will also have a right of first refusal to repurchase the property if the property is proposed to be sold for use(s) other than a school primarily serving the Ravenswood Elementary School District, with the purchase price to be the lesser of (a) the price to be paid by a bona fide purchaser or (b) the then appraised value of the property using the sale assumptions used to establish the sales price to California Family Foundation, plus the value of improvements made to the site by the Foundation if the improvements are to be used by the City or a subsequent owner/user. The Foundation will have a 60 day due diligence period to satisfy itself regarding the condition of the property and approval of the parcel map, easements and parking maintenance agreement. Escrow will close within 15 days of approval of the parcel map and the rezoning of the property. It is estimated that escrow will close by the end of August of 2012.

Protests, if any, to the sale of the property to the California Family Foundation will be heard at the public hearing held by the City Council on April 17, 2012, at 7:00 p.m. in the City Council Chambers located at 701 Laurel Street, Menlo Park, California or as soon thereafter as the matter may be heard. The City Council will take final action on the sale of the property after the close of the public hearing.

IMPACT ON CITY RESOURCES

The expired Exclusive Negotiating Rights Agreement (ENRA) for the Terminal site states that the Agency would agree to purchase 297 Terminal Avenue for \$481,590, if the process terminated without resulting in an executed Disposition and Development Agreement (DDA). The purchase was approved by the Council in July of 2011. Since the purchase price for the purchase of 297 Terminal Avenue came from the BMR Fund, those funds would be repaid from the sale proceeds. The balance of the sales proceeds would go to the General Fund.

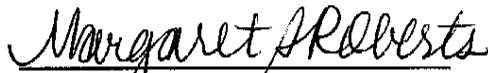
The City previously estimated total costs of \$45,000 for subdivision, property appraisal, legal services and staff time for the sale of the property. To date, the Agency and City have expended or committed approximately \$30,000 of that total.

POLICY ANALYSIS

The City Council previously directed the City Attorney to negotiate the sale of the property to California Family Foundation for the Beechwood School. This action is consistent with the Council's previous direction.

ENVIRONMENTAL REVIEW

The sale of surplus governmental property is categorically exempt under Class 12 (Section 15312, "Surplus Government Property Sales") of the current California Environmental Quality Act (CEQA) Guidelines.



for William McClure
City Attorney

PUBLIC NOTICE

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

ATTACHMENTS

- A: Resolution of Intention to Sell Certain Real Property on Terminal Avenue to the California Family Foundation for Beechwood School

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK OF ITS FINDING AND INTENTION TO SELL THAT CERTAIN REAL PROPERTY LOCATED BEHIND PROPERTIES FRONTING ON THE NORTH SIDE OF TERMINAL AVENUE, CONSISTING OF THE BEECHWOOD SCHOOL PROPERTY AND VACANT LAND BETWEEN THE SCHOOL AND MENLO PARK FIRE PROTECTION DISTRICT STATION NO. 77 AND SOUTH OF THE JOINT POWERS AUTHORITY OWNED RAILROAD RIGHT OF WAY, AND 297 TERMINAL AVENUE TO THE CALIFORNIA FAMILY FOUNDATION PURSUANT TO GOVERNMENT CODE SECTION 37420 ET SEQ.

WHEREAS, the City of Menlo Park ("City") is the owner of that certain real property located behind properties fronting on the north side of Terminal Avenue, consisting of the Beechwood School property and vacant land between the School and Menlo Park Fire Protection District Station No. 77 and south of the Joint Powers Authority owned railroad right of way, and 297 Terminal Avenue ("Property"); and

WHEREAS, the City intends to sell the Property to the California Family Foundation for purposes of a building a permanent campus on the Property for the Beechwood School; and

WHEREAS, California Government Code Sections 37420 through 37430 authorize the City to dispose of City-owned property; and

WHEREAS, California Government Code Section 37421 provides that when the City Council finds that the public interest and convenience require the sale of City-owned property, the City Council may adopt a resolution stating such findings and intention to sell the property; and

WHEREAS, California Government Code Section 37422 provides that such resolution shall fix a time for hearing protests to the sale of the property, provide for publication of notice of the hearing, fix the time when the City Council will take final action regarding the sale of the property, and contain an accurate description of the property to be sold.

NOW, THEREFORE, 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 as follows:

1. The public interest and convenience require the sale of the of the Property, consisting of approximately 2.79 acres of land between the Onetta Harris Community Center parking lot at one end and the property leased to the Menlo Park Fire Protection District for the existing fire station at 1467 Chilco Street at the other end, consisting of the existing Beechwood School site and adjacent vacant land commonly known as 50 Terminal Avenue (portions of APN 055-260-170 and 055-280-020) and the real property located at 297 Terminal Avenue (APN 055-331-130).

2. A public hearing shall be held by the City Council to hear any protests regarding the sale of the Property by the City to the California Family Foundation on April 17, 2012 at 7:00 p.m. in the City Council Chambers located at 701 Laurel Street, Menlo Park, California or as soon thereafter as the matter may be heard.

3. Notice of the hearing shall be provided by publication in a daily newspaper published and circulated in the City, or if there is none, a newspaper published in the County of San Mateo and notice shall be posted for not less than ten days in at least three conspicuous places upon each parcel of the Property.

4. The City Council shall take final action on the sale of the Property to the California Family Foundation on April 17, 2012, following the public hearing.

I, Margaret S. Roberts, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing Resolution was duly and regularly passed and adopted at a meeting by said Council on this twenty-eighth day of March, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this twenty-eighth day of March, 2012.

Margaret S. Roberts, MMC
City Clerk