



CITY COUNCIL REGULAR MEETING AGENDA

Tuesday, June 12, 2012
7:00 p.m.
701 Laurel Street, Menlo Park, CA 94025
City Council Chambers

7:00 P.M. REGULAR SESSION

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

PLEDGE OF ALLEGIANCE

ANNOUNCEMENTS

A. PRESENTATIONS AND PROCLAMATIONS - None

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.** Authorize the City Manager to enter into a contract with Revolution Foods in the amount of \$78,464 for the delivery of food services at Belle Haven Child Development Center ([Staff report #12-090](#))
- D2.** Adopt a resolution: a) Calling and giving notice of holding a General Municipal Election for two seats on the Menlo Park City Council; b) requesting that the City Council consolidate the election with the Presidential General Election to be held on November 6, 2012; and c) contracting with the San Mateo County Chief Elections Office for election services ([Staff report #12-091](#))
- D3.** Adoption of a resolution appropriating a total of \$350,000 from the Below Market Rate Housing Fund for FY 2011-012; authorize the City Attorney and City Manager to take all steps necessary to cure an existing loan default and purchase the property at 1403 Sage Street and retain the home in the City’s BMR program ([Staff report #12-096](#))
- D4.** Adopt a resolution accepting dedication of a public access easement and authorizing the City Manager to sign the certificate of acceptance for the 200 Middlefield Road Frontage Improvements Project ([Staff report #12-087](#))
- D5.** Adopt a resolution supporting the Willow Road/US 101 Interchange Project and the Sand Hill Road Signal Interconnect Project and submitting an application for Measure A Highway Program Funding for the Willow Road/US 101 Interchange Project and the Sand Hill Road Signal Interconnect Project ([Staff report #12-097](#))

- D6.** Waive second reading and adopt an ordinance amending Title 16 of the Menlo Park Municipal Code to incorporate the El Camino Real/Downtown Specific Plan, and ordinances rezoning properties located in the El Camino Real/Downtown Specific Plan area ([Staff report #12-098](#))

E. PUBLIC HEARING

- E1.** Adopt a resolution overruling protests, ordering the improvements, confirming the diagram and ordering the levy and collection of assessments at the existing fee rates for the sidewalk and tree assessments for the City of Menlo Park Landscaping Assessment District for fiscal year 2012-13 ([Staff report #12-088](#))
- E2.** Adopt a resolution authorizing collection of a regulatory fee at existing rates to implement the local City of Menlo Park Storm Water Management Program for Fiscal Year 2012-13 ([Staff report #12-092](#))
- E3.** Adopt a resolution recommending that the San Mateo County Flood Control District impose basic and additional charges for funding the fiscal year 2012-13 countywide National Pollutant Discharge Elimination System General Program ([Staff report #12-089](#))

F. REGULAR BUSINESS

- F1.** Adopt resolutions: Adopting the 2012-13 Budget and Capital Improvement Program for the City of Menlo Park; establishing the appropriation limit for fiscal year 2012-13; establishing a Consecutive Temporary Tax percentage reduction in Utility Users Tax rates; and determining the continued need for imposition of the Utility Users Tax per Section 3.14.310 of the Municipal Code ([Staff report #12-093](#))
- F2.** Introduction of an ordinance to amend Menlo Park Municipal Code to increase the Transient Occupancy Tax (TOT) rate from 10% to 12% ([Staff report #12-095](#))
- F3.** Amend the Public Noticing Policy (Policy) for Development Permit applications in order to provide alternate means for noticing the public of development projects in a cost effective and efficient manner ([Staff report #12-094](#))
- F4.** 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

- I1.** Belle Have CDC Self Evaluation Report for the Child Development Division of the California Department of Education for fiscal year 2011-12 ([Staff report #12-086](#))

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: 06/07/2012)

At every Regular Meeting of the City Council, 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, 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 anyone 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.



COMMUNITY SERVICES DEPARTMENT

Council Meeting Date: June 12, 2012
Staff Report #: 12-090

Agenda Item #: D-1

CONSENT AGENDA: Authorize the City Manager to Enter Into a Contract With Revolution Foods in an Amount Not to Exceed \$78,464 for the Delivery of Food Services at the Belle Haven Child Development Center for FY2012-13

RECOMMENDATION

Staff recommends that the Council authorize the City Manager to enter into a contract with Revolution Foods in an amount not to exceed \$78,464 for the delivery of food services at the Belle Haven Child Development Center for FY 2012-13.

BACKGROUND

The City of Menlo Park has operated the Belle Haven Child Development Center (BHDC) for over 30 years. An important component of the program is the breakfast and lunch served to each child every day. Meal services must comply with the California Childcare Food Program meal pattern requirements (including quantity of food and food types for each age group) as well as the nutritional standards for breakfast and lunch as established by the United States Department of Agriculture (USDA). The BHDC receives meal reimbursements through the USDA based on income levels of families served as well as daily attendance. Contracts for food services must be renewed annually due to USDA requirements limiting the length of a contract to one year and disallowing automatic renewal provisions. The contract for food services must also be submitted to the California Department of Education in order to ensure compliance with all the provisions and standards set forth by the USDA.

The BHDC is licensed for 96 children and has an average daily meal count of approximately 72 breakfasts and lunches. The Center is currently contracted by the State to remain open for 246 days a year, which results in the need for approximately 35,425 meals per year. Staff is not anticipating any change in operations during Fiscal Year 2012-13.

ANALYSIS

Bids for the delivery of breakfast and lunch were solicited from food service vendors in the area. Two bids were sent out to Revolution Foods and to Choice Lunch, however only one bid was received by Revolution Foods. Revolution Foods' proposal provides

excellent menu options, nutrition education for parents and children, sack lunches for field trips, daily milk and daily fresh fruit.

The Revolution Foods menu option component has been very important to the BHDC as multiple meal options increase the children's exposure to new foods and flavors and provide the BHDC with the ability to accommodate children with special dietary needs without additional staff time or cost. There are two options for breakfast and three to five options for lunch, including a main menu, a vegetarian, a dairy-free, a sandwich and a salad option. Revolution Foods' meals contain no rBST or hormones in the milk, no nitrates or nitrites in the meat, no fried food, no high fructose corn syrup, no artificial trans fats and no artificial color, flavors or sweeteners. All of their baked goods contain whole grains; they use organic and locally produced ingredients from family farms whenever possible; they offer a different fresh fruit each day of the week and do not serve canned fruit.

Revolution Foods is the current vendor and staff has been very pleased with the high quality meals and foods served. Their Culinary Center is a Bay Area Green Business and Water Smart Business. They recycle and compost virtually all of their kitchen waste, use energy efficient insulated food storage units, print education materials on recycled paper using soy-based inks, use recyclable packaging whenever possible and their hot food containers are printed with soy-based inks.

The City receives reimbursement from the USDA through the Child Care Food Program for a fixed amount for each child's meals. The current reimbursement rate varies based on the child's family income and ranges from a base rate of \$ 0.27 to \$1.51 for breakfast, \$0.26 to \$2.77 for lunch, and \$0.07 to \$0.76 for snacks. Fiscal 2011-12 data indicates that of the children qualifying for a meal subsidy, approximately 12 percent qualified for the base reimbursement rate, 21 percent qualified for the reduced-price reimbursement rate and 67 percent qualified for full subsidy reimbursement rate. At the per meal prices quoted in the bid, the full-year cost for seventy-two breakfasts and lunches per day would be \$78,464.

IMPACT ON CITY RESOURCES

The contract with Revolution Foods will not exceed the amount of \$78,464 for approximately twelve months of service. Additional food costs (extra snacks, condiments, dry goods, etc.) are estimated at \$16,915 for the twelve-month period. The maximum annual cost of food services for the program is \$105,716. It is estimated that the City will receive \$81,388 in Federal grant reimbursements (breakfast, lunch and snacks), resulting in a net cost to the City of \$24,328. The net cost is included in the 2012-13 budget for the Belle Haven Child Development Center in the General Fund.

POLICY ISSUES

The recommendation does not represent any change to existing City policy.

ENVIRONMENTAL REVIEW

Approval of the contract is not deemed a project under the California Environmental Quality Act.

/s/ Signature on file
Natalie Bonham, Report Author
Program Supervisor- BHCD


Cherise Brandell
Cherise Brandell
Director of Community Services

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. Revolution Foods Contract for FY2012-13

VENDOR #:
AGREEMENT #:

**STANDARD AGREEMENT TO FURNISH FOOD SERVICE
BETWEEN A CHILD AND ADULT CARE FOOD PROGRAM AGENCY
AND A FOOD SERVICE VENDOR**

THIS ENTERED INTO ON THIS FIRST DAY OF MAY, 2012 BY
MONTH YEAR
AND BETWEEN CITY OF MENLO PARK, HEREINAFTER REFERRED TO AS THE
NAME OF AGENCY
AGENCY, AND REVOLUTION FOODS, INC. HEREINAFTER REFERRED TO AS THE
NAME OF FOOD SERVICE MANAGEMENT COMPANY
VENDOR.

WHEREAS, IT IS NOT WITHIN THE CAPABILITY OF THE AGENCY TO PREPARE SPECIFIED MEALS UNDER THE CHILD AND ADULT CARE FOOD PROGRAM (CACFP) FOR ENROLLED PARTICIPATING ADULTS; AND

WHEREAS, THE FACILITIES AND CAPABILITIES OF THE VENDOR ARE ADEQUATE TO PREPARE SPECIFIED MEALS FOR THE AGENCY'S FACILITY(IES); AND

WHEREAS, THE VENDOR IS WILLING TO PROVIDE SUCH SERVICES TO THE AGENCY ON A COST REIMBURSEMENT BASIS.

THEREFORE, BOTH PARTIES HERETO AGREE AS FOLLOWS:

THE VENDOR AGREES TO:

1. PREPARE THE MEALS INCLUSIVE OF MILK FOR BELLE HAVEN CHILD DEVELOPMENT CENTER
NAME OF SITE

DELIVERY TO THE AGENCY AT 410 IVY DRIVE, MENLO PARK, CA 94025 BY TBD
ADDRESS OF SITE TIME

EACH WEEKDAY, IN ACCORDANCE WITH THE NUMBER OF MEALS REQUESTED AND
* WEEKDAY OR AS APPROPRIATE

AT THE COST(S) PER MEAL LISTED BELOW:

BREAKFAST	<u>\$1.40</u>	EACH	LUNCH	<u>\$3.03</u>	EACH
SUPPLEMENT/SNACK	<u>\$0.73</u>	EACH	SUPPER	<u>\$N/A</u>	EACH

2. ASSURE THE AGENCY THAT NO TITLE III(C) FUNDS HAVE BEEN APPLIED TO THE COST OF OR TITLE III(C) COMMODITIES USED FOR THE PREPARATION OF THESE MEALS.

* Negotiable time frame but should be no longer than 24 hours.

**STANDARD AGREEMENT TO FURNISH FOOD SERVICE
BETWEEN A CHILD AND ADULT CARE FOOD PROGRAM AGENCY
AND A FOOD SERVICE VENDOR**

VENDOR #:
AGREEMENT #:

3. PROVIDE THE AGENCY, FOR APPROVAL, A PROPOSED MENU FOR EACH MONTH AT LEAST 7 DAYS PRIOR TO THE BEGINNING OF THE MONTH TO WHICH THE MENU APPLIES. ANY CHANGES TO THE MENU MADE AFTER AGENCY APPROVAL, MUST BE AGREED UPON BY THE AGENCY AND DOCUMENTED ON THE MENU RECORDS.
4. ASSURE THAT EACH MEAL PROVIDED TO THE AGENCY UNDER THIS CONTRACT MEETS THE MINIMUM REQUIREMENTS AS TO THE NUTRITIONAL CONTENT AS SPECIFIED BY THE CHILD AND ADULT CARE FOOD PROGRAM'S SCHEDULE B--MEAL PATTERN FOR OLDER CHILDREN (ATTACHED) WHICH IS EXCERPTED FROM THE TITLE 7 CODE OF FEDERAL REGULATIONS, PART 226.20.
5. MAINTAIN COST RECORDS SUCH AS INVOICES, RECEIPTS, AND/OR OTHER DOCUMENTATION THAT SHOWS THE PURCHASE, OR AVAILABILITY TO THE VENDOR, OF MEAL COMPONENTS, AS ITEMIZED IN THE MEAL PREPARATION RECORDS.
6. MAINTAIN FULL AND ACCURATE RECORDS WHICH DOCUMENT: (1) THE MENUS LISTING ALL MEALS PROVIDED TO THE AGENCY DURING THE TERM OF THIS CONTRACT; (2) A LISTING OF ALL NUTRITIONAL COMPONENTS OF EACH MEAL; AND, (3) AN ITEMIZATION OF THE QUANTITIES OF EACH COMPONENT USED TO PREPARE SAID MEAL. THE VENDOR AGREES TO PROVIDE MEAL PREPARATION DOCUMENTATION BY USING YIELD FACTORS FOR EACH FOOD ITEM AS LISTED IN THE USDA FOOD BUYING GUIDE WHEN CALCULATING AND RECORDING THE QUANTITY OF FOOD PREPARED FOR EACH MEAL.
7. MAINTAIN, ON A DAILY BASIS, AN ACCURATE COUNT OF THE NUMBER OF MEALS, BY MEAL TYPE, PREPARED FOR THE AGENCY. MEAL COUNT DOCUMENTATION MUST INCLUDE THE NUMBER OF MEALS REQUESTED BY THE AGENCY.
8. ALLOW THE AGENCY TO INCREASE OR DECREASE THE NUMBER OF MEAL ORDERS, AS NEEDED, WHEN THE REQUEST IS MADE WITHIN 48 HOURS OF THE SCHEDULED DELIVERY TIME.
9. PRESENT TO THE AGENCY AN INVOICE, ACCOMPANIED BY REPORTS, NO LATER THAN THE * 1st DAY OF EACH MONTH THAT ITEMIZES THE PREVIOUS MONTH'S DELIVERY. THE VENDOR AGREES TO FORFEIT PAYMENT FOR MEALS WHICH ARE NOT READY WITHIN 1 HOUR OF THE AGREED UPON DELIVERY TIME, ARE SPOILED, OR UNWHOLESOME AT THE TIME OF DELIVERY, OR DO NOT OTHERWISE MEET THE MEAL REQUIREMENTS CONTAINED IN THIS AGREEMENT.
10. PROVIDE THE AGENCY WITH A COPY OF CURRENT HEALTH CERTIFICATIONS FOR THE FOOD SERVICE FACILITY IN WHICH IT PREPARES MEALS FOR USE IN THE CACFP. THE VENDOR SHALL ENSURE THAT ALL HEALTH AND SANITATION REQUIREMENTS OF THE CALIFORNIA RETAIL FOOD FACILITIES LAW AND CHAPTER 4 OF THE CALIFORNIA HEALTH AND SAFETY CODE ARE MET AT ALL TIMES.
11. OPERATE IN ACCORDANCE WITH CURRENT CACFP REGULATIONS.
12. RETAIN ALL REQUIRED RECORDS FOR A PERIOD OF THREE (3) YEARS AFTER THE END OF THE FISCAL YEAR TO WHICH THEY PERTAIN (OR LONGER, IF AN AUDIT IS IN PROGRESS) AND, UPON REQUEST, MAKE ALL ACCOUNTS AND RECORDS PERTAINING TO THE AGREEMENT AVAILABLE TO THE CERTIFIED PUBLIC ACCOUNTANT HIRED BY THE AGENCY, REPRESENTATIVES OF THE CALIFORNIA STATE DEPARTMENT OF EDUCATION, THE U. S. DEPARTMENT OF AGRICULTURE, AND THE U.S. GENERAL ACCOUNTING OFFICE FOR AUDIT OR ADMINISTRATIVE REVIEW AT A REASONABLE TIME AND PLACE.
13. NOT SUBCONTRACT FOR THE TOTAL MEAL, WITH OR WITHOUT MILK, OR FOR THE ASSEMBLY OF THE MEAL.

VENDOR #:
AGREEMENT #:

**STANDARD AGREEMENT TO FURNISH FOOD SERVICE
BETWEEN A CHILD AND ADULT CARE FOOD PROGRAM AGENCY
AND A FOOD SERVICE VENDOR**

THE VENDOR CERTIFIES:

1. NEITHER IT NOR ITS PRINCIPALS ARE PRESENTLY DEBARRED, SUSPENDED, PROPOSED FOR DEBARMENT, DECLARED INELIGIBLE, OR VOLUNTARILY EXCLUDED FROM PARTICIPATION IN THIS TRANSACTION BY ANY FEDERAL DEPARTMENT OR AGENCY.

WHERE THE BIDDER IS UNABLE TO CERTIFY TO ANY OF THE STATEMENTS IN THIS CERTIFICATION, SUCH AGENCY SHALL ATTACH AN EXPLANATION TO THIS PROPOSAL.

2. AS REQUIRED BY THE STATE DRUG-FREE WORKPLACE ACT OF 1990 (GOVERNMENT CODE SECTION 8350 ET. SEQ.) AND THE FEDERAL DRUG-FREE WORKPLACE ACT OF 1988, AND IMPLEMENTED AT TITLE 34 CODE OF FEDERAL REGULATIONS, PART 85, SUBPART F, FOR GRANTEEES, AS DEFINED AT TITLE 34 CODE OF FEDERAL REGULATIONS, PART 85, SECTIONS 85.605 AND 85.610, THE BIDDER CERTIFIES THAT IT WILL CONTINUE TO PROVIDE A DRUG-FREE WORKPLACE.

THE AGENCY AGREES TO:

1. REQUEST ONLINE USING VENDOR'S SYSTEM TUESDAY, 5PM OF THE PRECEDING WEEK AN ACCURATE NUMBER OF
TIME OF DAY AND DAY OF WEEK
MEALS TO BE DELIVERED TO THE AGENCY ON EACH WEEKDAY. NOTIFY THE
WEEKDAY OR AS APPROPRIATE
VENDOR OF NECESSARY INCREASES OR DECREASES IN THE NUMBER OF MEAL ORDERS WITHIN 48 HOURS OF THE SCHEDULED DELIVERY TIME. ERRORS IN MEAL ORDER COUNTS MADE BY THE AGENCY SHALL BE THE RESPONSIBILITY OF THE AGENCY.
2. ENSURE THAT AN AGENCY REPRESENTATIVE RECEIVES THE MEALS FOR EACH SITE, AT THE SPECIFIED TIME ON EACH SPECIFIED DAY. THIS INDIVIDUAL WILL INSPECT AND SIGN FOR THE REQUESTED NUMBER OF MEALS. THIS INDIVIDUAL WILL VERIFY THE TEMPERATURE, QUALITY, AND QUANTITY OF EACH MEAL DELIVERED. THE AGENCY ASSURES THE VENDOR THAT THIS INDIVIDUAL WILL BE TRAINED AND KNOWLEDGEABLE IN THE RECORD KEEPING AND MEAL REQUIREMENTS OF THE CACFP, AND IN HEALTH AND SANITATION PRACTICES.
3. PROVIDE PERSONNEL TO SERVE MEALS, CLEAN THE SERVING AND EATING AREAS, AND ASSEMBLE TRANSPORT CARTS AND AUXILIARY ITEMS FOR RETURN TO THE VENDOR NO LATER THAN DAILY, UPON DELIVERY.
TIME EACH DAY
4. NOTIFY THE VENDOR WITHIN 5 DAYS OF RECEIPT OF THE NEXT MONTH'S PROPOSED MENU OF ANY CHANGES CHANGES, ADDITIONS, OR DELETIONS, WHICH WILL BE REQUIRED IN THE MENU REQUEST.
5. PROVIDE THE VENDOR WITH A COPY OF TITLE 7 CODE OF FEDERAL REGULATIONS, PART 226; THE CHILD AND ADULT CARE FOOD PROGRAM SCHEDULE B--MEAL PATTERN FOR OLDER CHILDREN; AND THE USDA FOOD BUYING GUIDE (AS APPLICABLE); AND ALL OTHER TECHNICAL ASSISTANCE MATERIALS PERTAINING TO THE FOOD SERVICE REQUIREMENTS OF THE CACFP. THE AGENCY WILL, WITHIN 24 HOURS OF RECEIPT FROM THE STATE AGENCY, ADVISE THE VENDOR OF ANY CHANGES IN THE FOOD SERVICE REQUIREMENTS OF THE CACFP.

SCHEDULE B

**CHILD AND ADULT CARE FOOD PROGRAM
MEAL PATTERN FOR OLDER CHILDREN**

NSD 2050B (REV. 07/03)

- * DRIED BEANS OR DRIED PEAS MAY BE USED AS A MEAT ALTERNATE OR AS A VEGETABLE COMPONENT; BUT **CANNOT** BE COUNTED AS BOTH COMPONENTS IN THE SAME MEAL.

- ** NO MORE THAN 50 PERCENT OF THE REQUIREMENT SHALL BE MET WITH NUTS OR SEEDS. NUTS OR SEEDS SHALL BE COMBINED WITH ANOTHER MEAT/MEAT ALTERNATE TO FULFILL THE REQUIREMENT. TO DETERMINE COMBINATIONS, 1 OZ. OF NUTS OR SEEDS IS EQUAL TO 1 OZ. OF COOKED LEAN MEAT, POULTRY, OR FISH. ROASTED PEAS CAN COUNT AS A MEAT ALTERNATE OR VEGETABLE COMPONENT, BUT CANNOT BE COUNTED AS BOTH IN THE SAME MEAL.

- *** JUICE **CANNOT** BE SERVED WHEN MILK IS SERVED AS THE ONLY OTHER COMPONENT.

- **** IF YOGURT IS USED AS THE MEAT COMPONENT IN SUPPLEMENTS, MILK **CANNOT** BE USED TO SATISFY THE SECOND COMPONENT REQUIREMENT. COMMERCIALY ADDED FRUIT OR NUTS IN FLAVORED YOGURT **CANNOT** BE USED TO SATISFY THE SECOND COMPONENT REQUIREMENT IN SUPPLEMENTS.

Alameda County Department of Environmental Health
1131 Harbor Bay Parkway - Alameda, CA 94502 - (510) 567-6700

PERMIT TO OPERATE

Mail To

REVOLUTION FOODS
8383 CAPWELL DR
OAKLAND, CA 94621

Facility Name

REVOLUTION FOODS
8383 CAPWELL DR
OAKLAND, CA 94621-0000

Permit Expires: 4/7/2013

Facility Owner Name REVOLUTION FOODS INC

Facility ID FA0310759

Valid Dates 4/8/2012 - 4/7/2013

Census Tract 090

Date Printed 03/01/2012

Program Description

2031 CATERING KITCHEN/COMMISSARY

Permit Number

PT0310061

By Authority of:

Ariu Levi, Director of Alameda County Department of Environmental Health



Permit to Operate is NOT TRANSFERABLE

Permit may be revoked or suspended for:

- Non payments of fees
- Violations of the California Health and Safety Codes
- Imminent health hazards



THIS PERMIT MUST BE DISPLAYED CONSPICUOUSLY AT THE PERMITTED FACILITY

View Restaurant Inspection results at <http://ehgis.acgov.org>

THIS PERMIT IS THE PROPERTY OF THE ALAMEDA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH AND SHALL NOT BE COPIED OR ALTERED IN ANY WAY



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
8/8/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Barney & Barney LLC CA License: 0C03950 1999 Harrison Suite 1230 Oakland CA 94612	CONTACT NAME: Donna Platou PHONE (A/C No. Ext): (510) 273-8888 FAX (A/C No.): (510) 273-8867 E-MAIL ADDRESS: donna.platou@barneyandbarney.com																				
	<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: Travelers Indemnity of CT</td> <td></td> <td>25682</td> </tr> <tr> <td>INSURER B: Travelers Casualty & Surety</td> <td></td> <td>19038</td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A: Travelers Indemnity of CT		25682	INSURER B: Travelers Casualty & Surety		19038	INSURER C:			INSURER D:			INSURER E:			INSURER F:	
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INSURER B: Travelers Casualty & Surety		19038																			
INSURER C:																					
INSURER D:																					
INSURER E:																					
INSURER F:																					
INSURED Revolution Foods, Inc. 8383 Capwell Drive Oakland CA 94612																					

COVERAGES CERTIFICATE NUMBER: 11-12 GL/Auto/EX/WC REVISION NUMBER:

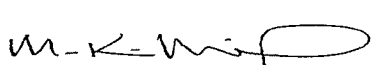
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY					EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X	6308283N38A11TTL	8/1/2011	8/1/2012	MED EXP (Any one person) \$ 5,000
						PERSONAL & ADV INJURY \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					GENERAL AGGREGATE \$ 2,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					PRODUCTS - COM/POP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO					BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS		8108532N11711TTL	8/1/2011	8/1/2012	BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR					EACH OCCURRENCE \$ 10,000,000
	<input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE					AGGREGATE \$ 10,000,000
	DED RETENTION \$		CUP8532N24611TTL	8/1/2011	8/1/2012	\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	UB5691R91311	8/1/2011	8/1/2012	E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
						E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

CANCELLATION

Evidence of Coverage	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Kevin Mirsky/DE 

VENDOR #:
AGREEMENT #:

**STANDARD AGREEMENT TO FURNISH FOOD SERVICE
BETWEEN A CHILD AND ADULT CARE FOOD PROGRAM AGENCY
AND A FOOD SERVICE VENDOR**

6. PAY THE VENDOR BY THE 30TH DAY OF EACH MONTH THE FULL AMOUNT AS PRESENTED ON THE MONTHLY ITEMIZED INVOICE. THE AGENCY AGREES TO NOTIFY THE VENDOR WITHIN 48 HOURS OF RECEIPT OF ANY DISCREPANCY IN THE INVOICE

TERMS OF THE AGREEMENT:

THIS AGREEMENT WILL TAKE EFFECT COMMENCING JULY 1, 2012 AND SHALL BE FOR A PERIOD OF ONE CALENDAR YEAR. IT MAY BE TERMINATED BY WRITTEN NOTIFICATION GIVEN BY EITHER PARTY HERETO THE OTHER PARTY AT LEAST 30 DAYS PRIOR TO THE DATE OF TERMINATION.

SCHOOL FOOD AUTHORITY VENDING TO AN AGENCY:


PER TITLE 7, CODE OF FEDERAL REGULATIONS, PART 226.20 (O), AGENCIES WHICH VEND FROM A SCHOOL THAT PARTICIPATES IN THE NATIONAL SCHOOL LUNCH AND SCHOOL BREAKFAST PROGRAMS MAY USE THE SCHOOL'S MEAL PATTERN. ENTER THE SCHOOL MEAL INITIATIVE (SMI) PLANNING OPTION(S) YOU WILL USE AND SUBMIT A MENU TO THE AGENCY FOR NSD'S APPROVAL IF YOU WILL NOT USE THE STANDARD CACFP MEAL PATTERN:

If the Agency agrees to the menu planning option, the school will train the Agency by: _____

AGENCY:

Agrees to allow the school to use the SMI menu planning option noted above (submit menu for NSD's approval):
Yes No

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT AS OF THE DATES INDICATED BELOW:

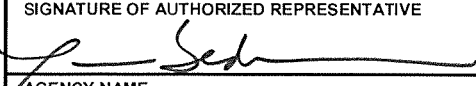
VENDOR OFFICIAL SIGNATURE 	AGENCY OFFICIAL SIGNATURE
VENDOR OFFICIAL NAME (PLEASE TYPE) MAUREEN SEDONAEN	AGENCY OFFICIAL NAME (PLEASE TYPE)
TITLE Regional Vice President	TITLE
TELEPHONE NUMBER 510-596-9024	TELEPHONE NUMBER
DATE 05/01/2012	DATE

**CHILD AND ADULT CARE FOOD PROGRAM
MEAL PATTERN FOR OLDER CHILDREN**

VENDOR #:

AGREEMENT #:

NSD 2050B (REV. 07/03)

BREAKFAST	AGES ONE THROUGH THREE YEARS	AGES THREE THROUGH SIX YEARS	AGES SIX THROUGH TWELVE YEARS
MILK, FLUID	½ CUP	¾ CUP	1 CUP
VEGETABLE, FRUIT OR FULL-STRENGTH (100%) JUICE	¼ CUP	½ CUP	½ CUP
GRAINS/BREADS (WHOLE GRAIN OR ENRICHED): BREAD OR ROLLS, MUFFINS, ETC., OR COLD DRY CEREAL (VOLUME OR WEIGHT, WHICHEVER IS LESS) OR COOKED CEREAL, PASTA, NOODLE PRODUCTS, OR CEREAL GRAINS	½ SLICE ½ SERVING ¼ CUP OR ⅓ OZ. ¼ CUP	½ SLICE ½ SERVING ⅓ CUP OR ½ OZ. ¼ CUP	1 SLICE 1 SERVING ¾ CUP OR 1 OZ. ½ CUP
LUNCH OR SUPPER			
MILK, FLUID	½ CUP	¾ CUP	1 CUP
VEGETABLE AND/OR FRUIT (TWO OR MORE KINDS)	¼ CUP TOTAL	½ CUP TOTAL	¾ CUP TOTAL
GRAINS/BREAD (WHOLE GRAIN OR ENRICHED): BREAD OR ROLLS, MUFFINS, ETC., OR COOKED PASTA, NOODLE PRODUCTS, OR CEREAL GRAINS	½ SLICE ½ SERVING ¼ CUP	½ SLICE ½ SERVING ¼ CUP	1 SLICE 1 SERVING ½ CUP
MEAT/MEAT ALTERNATES LEAN MEAT, FISH, OR POULTRY (EDIBLE PORTION AS SERVED) OR CHEESE (NATURAL OR PROCESSED) OR COTTAGE CHEESE, CHEESE FOOD/CHEESE SPREAD SUBSTITUTE OR EGG (LARGE) OR COOKED DRIED BEANS OR DRIED PEAS * OR PEANUT BUTTER, REDUCED-FAT PEANUT BUTTER, SOY NUT BUTTER, OR OTHER NUT OR SEED BUTTERS OR PEANUTS, SOY NUTS, TREE NUTS, ROASTED PEAS, OR SEEDS** OR YOGURT, PLAIN OR FLAVORED, UNSWEETENED OR SWEETENED OR AN EQUIVALENT QUANTITY OF ANY COMBINATION OF THE ABOVE MEAT/MEAT ALTERNATES.	1 OZ. 1 OZ. ¼ CUP OR 2 OZ. 1 EGG ¼ CUP 2 TBSP ½ OZ.** ½ CUP	1-½ OZ. 1-½ OZ. ⅜ CUP OR 3 OZ. 1 EGG ⅜ CUP 3 TBSP ¾ OZ.** ¾ CUP	2 OZ. 2 OZ. ½ CUP OR 4 OZ. 1 EGG ½ CUP 4 TBSP 1 OZ.** 1 CUP
AM OR PM SUPPLEMENT (SELECT TWO OF THESE FOUR COMPONENTS)***			
MILK, FLUID	½ CUP	½ CUP	1 CUP
VEGETABLE, FRUIT, OR FULL-STRENGTH (100%) JUICE	½ CUP	½ CUP	¾ CUP
GRAINS OR BREADS (WHOLE GRAIN OR ENRICHED): BREAD OR ROLLS, MUFFINS, ETC. OR COLD DRY CEREAL (VOLUME OR WEIGHT, WHICHEVER IS LESS) OR COOKED CEREAL, PASTA, NOODLE PRODUCTS, OR CEREAL GRAINS.	½ SLICE ½ SERVING ¼ CUP OR ⅓ OZ. ¼ CUP	½ SLICE ½ SERVING ⅓ CUP OR ½ OZ. ¼ CUP	1 SLICE 1 SERVING ¾ CUP OR 1 OZ. ½ CUP
MEAT/MEAT ALTERNATES LEAN MEAT, FISH, OR POULTRY (EDIBLE PORTION AS SERVED) OR CHEESE (NATURAL OR PROCESSED) OR COTTAGE CHEESE, CHEESE FOOD/CHEESE SPREAD SUBSTITUTE OR EGG (LARGE) OR YOGURT, PLAIN OR FLAVORED, UNSWEETENED OR SWEETENED**** OR COOKED DRIED BEANS OR DRIED PEAS* OR PEANUT BUTTER, REDUCED-FAT PEANUT BUTTER, SOY NUT BUTTER, OR OTHER NUT OR SEED BUTTERS OR PEANUTS, SOY NUTS, TREE NUTS, ROASTED PEAS, OR SEEDS OR AN EQUIVALENT QUANTITY OF ANY COMBINATION OF THE ABOVE MEAT/MEAT ALTERNATES.	½ OZ. ½ OZ. ⅓ CUP OR 1 OZ. ½ EGG ¼ CUP ¼ CUP 1 TBSP ½ OZ.	½ OZ. ½ OZ. ⅓ CUP OR 1 OZ. ½ EGG ¼ CUP ¼ CUP 1 TBSP ½ OZ.	1 OZ. 1 OZ. ¼ CUP OR 2 OZ. 1 EGG ½ CUP ¼ CUP 2 TBSP 1 OZ.
CERTIFICATION			
<i>I hereby certify that all meals claimed shall meet the minimum requirements set forth in the meal pattern for older children as prescribed by Title 7 Code of Federal Regulations, Part 226.20 and as outlined in Schedule B, NSD 2050B.</i>			
SIGNATURE OF AUTHORIZED REPRESENTATIVE	TITLE	DATE	
	REGIONAL VICE PRESIDENT	05/01/2012	
AGENCY NAME			
REVOLUTION FOODS, INC.			
AGENCY ADDRESS			
8383 CAPWELL DRIVE. OAKLAND, CA 94621			

**CERTIFICATE OF ELIGIBILITY TO BID AND INDEPENDENT
PRICE DETERMINATION**


By submission of this bid, the bidder certifies and in the case of a joint bid, each party thereto certifies as to its own organizations, that in connection with this procurement:

- (1) The prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor.
- (2) Unless otherwise required by law, the prices, which have been quoted in this bid, have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to bid opening, directly or indirectly to any other bidder or to any competitor.
- (3) No attempt has been made or will be made by the bidder to induce any person or firm to submit or not to submit, a bid for the purpose of restricting competition.

Each person signing this bid certifies that:

- (A) He/she is the person in the bidder's organization responsible within that organization for the decision as to the prices being offered herein or that he/she has been authorized in writing to act as agent for the persons responsible for such decisions in certifying that such persons have not participated and will not participate, in any action contrary to (1) through (3) above;
- (B) He/she has not participated, and will not participate, in any action contrary to (1) through (3) above; and
- (C) His/her company and individual employees have not been proposed for debarment, debarred or suspended by a federal agency.

Vendor Certification:

SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE 	TITLE REGIONAL VICE PRESIDENT	DATE 05/10/2012
NAME OF COMPANY REVOLUTION FOODS, INC.		

In accepting this bid, the agency certifies that the agency's officers, employees or agents have not taken any action, which may have jeopardized the independence of the bid referred to above.

SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE	TITLE	DATE
--	-------	------

ACCEPTING A BID DOES NOT CONSTITUTE ACCEPTANCE OF THE CONTRACT

NOTE: Authorized representatives of both the agency and bidder must execute this or a similar certificate of independent price determination.


DEBARMENT/SUSPENSION CERTIFICATION

(BEFORE COMPLETING THIS CERTIFICATION, READ THE ATTACHED INSTRUCTIONS)

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989 Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction.

The prospective food vendor certifies to the best of its knowledge and belief, that it and its principals:

- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (e) Where the prospective food vendor is unable to certify to any of the statements in this certification, such prospective food vendor shall attach an explanation to this proposal.

VENDOR NAME REVOLUTION FOODS, INC.
VENDOR OFFICIAL (SIGNATURE) 
VENDOR OFFICIAL NAME AND TITLE MAUREEN SEDONAEN, REGIONAL VICE PRESIDENT
TELEPHONE NUMBER 510-596-9024
DATE 05/10/2012


CERTIFICATION REGARDING LOBBYING

Applicants must review the requirements for certification regarding lobbying included in the regulations cited below before completing this form. Applicants must sign this form to comply with the certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying." This certification is a material representation of fact upon which the Department of Education relies when it makes a grant or enters into a cooperative agreement.

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a Federal contract, grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants and contracts under grants and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certification.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
REVOLUTION FOODS, INC.	
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
MAUREEN SEDONAEN	
SIGNATURE	DATE
	05/10/2012



ADMINISTRATIVE SERVICES DEPARTMENT

Council Meeting Date: June 12, 2012

Staff Report #: 12-091

Agenda Item #: D-2

CONSENT CALENDAR: Adopt a Resolution: a) Calling and giving notice of holding a General Municipal Election for two seats on the Menlo Park City Council; b) Requesting that the City Council consolidate the election with the Presidential General Election to be held on November 6, 2012; and, c) Contracting with the San Mateo County Chief Elections Officer for election services

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution (Attachment A):

- a) Calling and giving notice of a General Municipal Election on November 6, 2012;
- b) Requesting consolidation of the election with the Presidential General Election; and
- c) Entering into a Service Agreement with San Mateo County Assessor-County Clerk-Recorder for election services.

BACKGROUND


Members of the City Council are elected for rotating four-year terms. Two seats on the Menlo Park City Council will expire in December 2012. The City of Menlo Park consolidates its general municipal elections with the County of San Mateo and requests that the San Mateo County Assessor-County Clerk-Recorder provide specific services for the City's election including the printing and mailing of ballot material, establishing and operating polling places, and the counting of the ballots. A calendar of key dates pertaining to the upcoming election is provided as Attachment B.

ANALYSIS

The City of Menlo Park consolidates its general municipal elections with the County of San Mateo. In order to contract with the San Mateo Assessor-County Clerk-Recorder, the City Council must adopt a Resolution requesting that the Board of Supervisors approve consolidation of the General Municipal Election with the Presidential General Election on November 6, 2012 and approve a Service Agreement, which specifies the duties of the City and the County.

IMPACT ON CITY RESOURCES

The estimated cost of consolidated election services for the two City Council seats election is approximately \$40,000. Funds are included in the FY 2012-2013 Budget.


Margaret S. Roberts, MMC
City Clerk

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
- B. November 6, 2012 Election Calendar

RESOLUTION NO.

CALLING AND GIVING NOTICE OF HOLDING A GENERAL MUNICIPAL ELECTION FOR TWO CITY COUNCIL SEATS; REQUESTING ELECTION CONSOLIDATION WITH THE PRESIDENTIAL GENERAL ELECTION TO BE HELD ON NOVEMBER 6, 2012; AND CONTRACTING WITH THE SAN MATEO COUNTY CHIEF ELECTIONS OFFICER FOR ELECTIONS SERVICES

WHEREAS, the City Council of Menlo Park is calling a General Municipal Election to be held on Tuesday, November 6, 2012, for the purpose of electing two council members for full terms; and

WHEREAS, the General Municipal Election is to be consolidated with the Presidential General Election to be held on the same date and that the City precincts, polling places and election officers of the two elections be the same, and that the San Mateo County Assessor-County Clerk-Recorder canvass the returns of the General Municipal Election and that the Election be held in all respects as if there were only one election.

NOW, THEREFORE BE IT RESOLVED that the City of Menlo Park orders as follows:

1. Pursuant to California Elections Code Section 10403, the City Council of Menlo Park is hereby consenting and agreeing to the consolidation of a General Municipal Election with the Presidential General Election to be held on November 6, 2012.
2. That the election precincts, polling places, voting booths and election officials in each of the precincts in which this election shall be held shall be the same as provided for the Presidential General Election on said date, as prescribed by the ordinance, order, resolution or notice of the Board of Supervisors of San Mateo County calling, providing for or giving notice of such other election and which sets forth such precincts, voting booths, polling places and election officials.
3. The City Council further requests that the County Board of Supervisors permit County election official(s) be authorized to render services to the City relating to the conduct of said election. The services shall be of the administrative type normally performed by such County election official(s) in conducting elections including, but not limited to, checking registrations; printing and mailing sample ballots; ballots; candidates' statements; hiring election officers and arranging for polling places; providing and distribution of election supplies; and counting ballots and canvassing returns.
4. That the San Mateo Assessor-County Clerk-Recorder is hereby authorized to canvass the returns of the General Municipal Election, and that the election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

5. The City of Menlo Park recognizes that the costs incurred by the San Mateo Assessor-County Clerk-Recorder, by reason of this consolidation, will be reimbursed by the City of Menlo Park as specified in the Services Agreement that the City of Menlo Park is approving.
6. The City Clerk is hereby directed to submit a certified copy of this resolution to the Board of Supervisors of the County of San Mateo, and to the appropriate County election officials of San Mateo. The City Clerk is also directed to file a copy of the resolution with the San Mateo County Chief Elections Officer/County Clerk.
7. That the City Clerk shall certify to the passage and adoption of this resolution.

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 twelfth day of June, 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 twelfth day of June, 2012.

Margaret S. Roberts, MMC
City Clerk

Office of Mark Church

Chief Elections Officer & Assessor-County Clerk-Recorder
40 Tower Road, San Mateo, California 94402

Days Prior to Election	Date	Election Calendar for November 6, 2012 Presidential Election
148	June 11, 2012	By this date, the Governor shall issue a proclamation calling the General Election and shall state the time of the election and the offices to be filled and transmit a copy of the proclamation to the board of supervisors of each county. The Secretary of State will send an informational copy of the proclamation to each county elections official. EC §12000
131	June 28, 2012	Last day for an initiative measure, statewide constitutional amendment, bond measure or other legislative measure to qualify for the Ballot. EC §9040; Cal. Const. Art. II §8(c)
130	June 29, 2012	(School or Special District Vacancy) Last day for the governing body of a local jurisdiction to call for an election to fill a vacancy to be on the Ballot. GC §1780; ED §5091(b)
127	July 2, 2012	Between these dates, the City Elections Official shall publish a Notice of Election including time of election and City office(s) to be filled. If a City measure is placed on the ballot before July 16, 2012, the notice of election shall be consolidated to include candidate(s) and measure(s). EC §§12101, 12111
113	July 16, 2012	
125	July 5, 2012	Last day for Special Districts to deliver notice of offices to be filled, decisions regarding payment of candidate statements, and a map of the District boundaries.(NOTE: The deadline is extended one day pursuant to EC §15 as it would otherwise fall on a holiday.) EC §§10509, 10522
123	July 6, 2012	(School District Vacancy) Last day for the school governing board to deliver a resolution (the "specifications of the election order") to the County Superintendent and Elections Officer calling for an election of governing board members. ED §5322
120	July 9, 2012	(School District Vacancy) Last day for the County Superintendent to deliver an official order and formal notice of election of governing board members to the Elections Official. ED §5325(b)
120	July 9, 2012	Between these dates, the County shall publish the Notice of Election (date of election, identification of offices to be filled, statement of required qualifications, where nomination papers are available, deadline for filing required forms, statement regarding appointment, and related information). The notice of central counting place may be combined with this notice. EC §12112; GC §6061; ED §5363
90	August 8, 2012	
118	July 11, 2012	First Candidate Seminar to be held at 2:00 p.m. at the Elections Office, 40 Tower Road, San Mateo.
114	July 16, 2012	(City Vacancy) For a vacancy in a city election office, this is the last day for the city council to call a special election for November 6 to fill the vacancy. The City shall immediately publish the Notice of Election. (NOTE: The deadline is extended one day pursuant to EC §15 as it would otherwise fall on a Sunday) EC § 12101-02; GC §36512
113	July 16, 2012	Between these dates is the candidate filing period. Nomination papers and declarations of candidacy are available during this time. A non-refundable filing fee (if applicable) and optional candidate statement are due at the time of filing. The candidate statement may be withdrawn but not changed during this period (until 5:00 p.m. on August 13, 2012) Paperwork must be in by 5:00 p.m. on August 10, 2012. No candidate may withdraw declaration of candidacy after 5:00 p.m. on August 10, 2012. Write-in Candidates and Independent Nominations will not be allowed for Voter Nominated Offices. EC §§8020, 8028, 8040-8041, 8061, 8100, 8105-8106, 10220, 10407, 10510, 10603, 13107, 13307
88	August 10, 2012	
113	July 16, 2012	Period in which United States House of Representatives and State Senate and Assembly candidates who will appear on the November ballot may purchase space for a 250-word candidate statement in the official sample ballot. GC §85601(c);EC §13307.5
88	August 10, 2012	
110	July 19, 2012	Second Candidate Seminar to be held at 10:00 a.m. at the Elections Office, 40 Tower Road, San Mateo.
102	July 27, 2012	Data Seminar to be held at 2:00 p.m. at the Elections Office, 40 Tower Road, San Mateo.

Office of Mark Church

Chief Elections Officer & Assessor-County Clerk-Recorder
40 Tower Road, San Mateo, California 94402

Days Prior to Election	Date	Election Calendar for November 6, 2012 Presidential Election
98	July 31, 2012	Last day that candidates may request in writing a different ballot designation than that used at the primary election. The written request shall be accompanied by a ballot designation worksheet. For United States House of Representatives and State Senate and Assembly candidates, this request should be made to both the Secretary of State and the county elections official. EC §13107(e)
98	July 31, 2012	Last day to file semiannual campaign statements; if required, by all candidates, organizations, committees, and slate mailer organizations. GC §§84200, 84218
88	August 10, 2012	Last day for a local entity to request election services and consolidation from the San Mateo County Board of Supervisors for the November 6th election by filing with the Board of Supervisors and submitting a copy to the Elections Officer a resolution of its governing board requesting the consolidation. EC §§1405, 10002, 10403, 12001
88	August 10, 2012	(School District Measure) Last day for a school governing board to deliver a resolution (the "specifications of the election order") to the Elections Officer calling for an election on a measure. ED §5322
88	August 10, 2012	Last day to submit nomination documents (declaration of candidacy and nomination papers to Elections Official - due by 5:00 p.m.). EC §§8020(b), 10510(a)
88	August 10, 2012	Last day for a candidate who has qualified for the ballot to withdraw their candidacy (until 5:00 p.m.). EC §§10510(a), 10603
88	August 10, 2012	10-Calendar day public review period begins August 10 and ends August 20 at 5:00 p.m. for all documents filed as of the filing deadline of August 10. Between these dates any registered voter or the Elections Officer may seek a writ of mandate or injunction requiring any or all of the materials to be amended or deleted if found to be misleading or inaccurate. Documents subject to this review include resolutions, ordinances, declarations and candidate statements. EC §§9190, 9295, 9380, 9509, 13313
78	August 20, 2012	
85	August 13, 2012	Except as provided in EC §13309, 5:00 p.m. today is the last day for a candidate to withdraw the candidate's statement. Candidates may withdraw, but not change their statements. EC §13307(a)(3)
85	August 13, 2012	County to publish a notice regarding County, School District & Special District measures, the dates for submitting primary arguments and rebuttals, the 10 day public examination period, and the central ballot counting location. EC §§9502, 10242; GC §6061; ED §5363
83	August 15, 2012	Last day for any qualified political party to submit to the county elections official a list of all candidates for voter-nominated office who will appear on any ballot in the county in question, and who have been endorsed by the party. The county elections official shall print any such list that is timely received in the sample ballot. EC § 13302(b)
83	August 15, 2012	Candidate Filing Period closes at the close of business for extended offices. Extended filing periods occur when a non-term limited incumbent does not file for re-election, and the extension only applies to non-incumbent candidates for such an office. EC §§8022(b), 8024, 10407
83	August 15, 2012	Last day for an order of election calling for a ballot measure to be amended or withdrawn. A resolution of the legislative body that issued the order of election must be filed with the Elections Official by today in order to amend or withdrawal a ballot measure. EC §9605
82	August 16, 2012	Random Alpha Drawing is conducted to determine the order in which candidate names will appear on the ballot and letters that will be assigned to each ballot measure. EC §§13112, 13116
82	August 16, 2012	Last day for a candidate whose filing period ended on the 83rd day to withdraw candidate statement. The statement may be withdrawn, but not changed, until 5:00 p.m. EC §13307 (a)(3)

Office of Mark Church

Chief Elections Officer & Assessor-County Clerk-Recorder
40 Tower Road, San Mateo, California 94402

Days Prior to Election	Date	Election Calendar for November 6, 2012 Presidential Election
81	August 17, 2012	For consolidated elections, the names of the candidates to appear upon the ballot where district, city, or other political subdivision offices are to be filled shall be filed with the Elections Official by this date. EC §10403
81	August 17, 2012	Primary Arguments in favor of and against local measures are due by 5:00 p.m. EC §§9162-9163, 9282-9283, 9286, 9315-9316, 9501-03
81	August 17, 2012	10-Calendar day review period begins August 17 at 5:00 p.m. and ends August 27 at 5:00 p.m. for Primary Arguments filed in favor of and against measures. Between these dates any registered voter or the Elections Officer may seek a writ of mandate or injunction requiring any or all of the materials to be amended or deleted if found to be misleading or inaccurate. EC §§9190, 9295, 9380, 9509
71	August 27, 2012	
71	August 27, 2012	Rebuttal Arguments for measures where a primary argument was filed both in favor and against are due. Impartial Analysis for city measures are also due. EC §§9163, 9167, 9285-86, 9316-17, 9501-9504
71	August 27, 2012	10-Calendar day review period begins August 27 at 5:00 p.m. and ends September 6 at 5:00 p.m. for Rebuttal Arguments filed in favor and/or against measures. Between these dates any registered voter or the elections official may seek a writ of mandate or injunction requiring any or all of the materials to be amended or deleted if found to be misleading or inaccurate. EC§ 9190, 9295, 9380, 9509
61	September 6, 2012	
68	August 30, 2012	By this date the Secretary of State will provide a certified list of Federal and State candidates, including a ballot rotation list to each County. EC §8120-8125
61	September 6, 2012	Any city that requests the Board of Supervisors to permit the Elections Official to prepare the city's election materials shall supply the Elections Official with a list of its precincts, or consolidated precincts, as applicable, no later than this date. EC §10002
57	September 10, 2012	During this time write-in candidates must file a statement of write-in candidacy and other required documentation with the Elections Office. EC §§8600, 8601
14	October 23, 2012	
50	September 17, 2012	By this date each County must send the report of registration, reflecting the total number of voters as of September 7, 2012, to the Secretary of State. EC §2187
40	September 27, 2012	Between these dates, the County Sample Ballot and Official Voter Information Pamphlet and the State Voter Information Guide will begin mailing to each voter who is registered at least 29 days prior to the election. EC §§9094, 13303-13304, 13306
21	October 16, 2012	
32	October 5, 2012	Last day to file campaign statements for candidates and committees for the period ending September 30, 2012. GC §§ 84200.5,84200.7(b)
29	October 8, 2012	Between these dates, any registered voter may request a Vote by Mail Ballot. Any requests received prior to October 8, 2012 will be kept until this period and then processed. EC §3001
7	October 30, 2012	
16	October 21, 2012	Contributions made by or received by a candidate or committee of \$1,000 or more per source must be reported within 24 hours during this period. GC §84203
1	November 5, 2012	
15	October 22, 2012	Voter Registration closes on this date for the November Presidential General Election. Voters must register by this date to be eligible to vote in this election. Postmarked voter registration forms with this date are accepted. EC §§2102, 2107
14	October 23, 2012	New California residents who established California residency on or after October 22, 2012, can register to vote during this time to receive a "New Resident's" ballot containing options to vote only for the office of President and Vice President at the Elections Office. EC §§332, 3400
7	October 30, 2012	

Office of Mark Church

Chief Elections Officer & Assessor-County Clerk-Recorder
40 Tower Road, San Mateo, California 94402

Days Prior to Election	Date	Election Calendar for November 6, 2012 Presidential Election
14	October 23, 2012	Between these dates, those who become new United States citizens on or after October 22, 2012, are eligible to register and vote at the Elections Office. A new citizen registering during this time must provide proof of citizenship and declare that he or she has established residency in California. EC §§331, 3500, 3501
0	November 6, 2012	
12	October 25, 2012	Last day to file campaign statements for candidates and committees for the period ending October 20, 2012. Candidates being voted upon, their controlled committees, and committees primarily formed to support or oppose a candidate or measure must file the second pre-election statement by guaranteed overnight mail or personal delivery. GC §§84200.5, 84200.7
10	October 27, 2012	Last Day for County to mail Sample Ballot and Official Voter Information Pamphlets to voters registered less than 29 days before the election. EC §13303
10	October 27, 2012	On or before this date, a notice shall be published by the county elections official at least once in a newspaper of general circulation within the district specifying the public place to be used as the central tally center for counting the ballots. EC §12109
7	October 30, 2012	By this date each County must send the report of registration, reflecting the total number of voters as of October 23, 2012, to the Secretary of State. EC §2187
7	October 30, 2012	By this date, the County shall publish a notice listing the polling places for this election and precinct board members appointed for this election by October 22, 2012. EC §§12105, 12105.5, 12106
0	November 6, 2012	Election Day. Polls open at 7:00 a.m. and close at 8:00 p.m. Semifinal official canvass commences upon the closing of all polls at 8:00 p.m. At 8:05 p.m. San Mateo County issues first report of election results and continues to issue updates until all precincts have reported. EC §§1000, 1001, 14212, 15150, 15151
28	December 4, 2012	Last day for County elections official to certify election results to the jurisdictions participating in the election. EC §15372
28	December 4, 2012	Last day for County elections official to post an updated list of the precinct board members who actually served on election day. EC §12105.5

Footnotes

EC: California Elections Code

ED: California Education Code

GC: California Government Code

All above California Codes may be referenced online at: www.leginfo.ca.gov/calaw.html



CITY ATTORNEY

Council Meeting Date: June 12, 2012
Staff Report #: 12-096

Agenda item #: D-3

CONSENT CALENDAR: Adopt a Resolution Appropriating a Total of \$350,000 from the Below Mark Rate Housing Fund for FY 2011-12; Authorize the City Attorney and City Manager to Take All Steps Necessary to Cure an Existing Loan Default and Purchase the Property at 1403 Sage Street and Retain the Home in the City's BMR Program

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution amending the Fiscal Year 2011-12 budget appropriating \$350,000 from the Below Market Rate Housing Fund to cure an existing loan default by the property owner and to purchase the property to preserve it in the BMR program; and authorize the City Attorney and the City Manager to take any and all actions necessary, including filing a lawsuit to acquire title to the unit in order to retain the house in the City's BMR program, and including but not limited to executing documents to accept a deed for title to the property.

BACKGROUND

The owner of the BMR unit at 1403 Sage Street is Ms. Shemica Taylor, who purchased the property in September of 2007 for \$330,000. The first deed of trust is with SunTrust Mortgage in the amount of \$264,000. Ms. Taylor also has a PAL loan with the City in the amount of \$66,000, for which payments have not yet started.

The City received a Notice of Default dated October 17, 2011, from SunTrust, indicating that Ms. Taylor had defaulted on her mortgage payments and owed approximately \$33,000 to bring the loan current. Nicolas Flegel of the City Attorney's office contacted Ms. Taylor and discussed the default and her efforts to work with SunTrust to modify the loan and bring it current.

A Notice of Trustee's Sale was recorded in mid-January 2012, with a sale date scheduled for February 14, 2012. Mr. Flegel was able to have the first sale date postponed 60 days to April 24, 2012, while Ms. Taylor worked on the loan modification.

On January 20, 2012, Mr. Flegel sent the owner a Notice of Default pursuant to the terms of the BMR Agreement, asking her to cure the current default within 10 days. On February 8, 2012, Mr. Flegel sent a second notice to the owner declaring a default of

the BMR Agreement for failure to cure the SunTrust default and indicating the City's intention to seek specific performance of the BMR Agreement and exercise its option to purchase the unit. As Mr. Flegel continued to work with the property owner and as she worked with SunTrust on a loan modification, the sale date was again postponed at the City's request to the new sale date of June 28, 2012.

In April 2012, SunTrust advised Ms. Taylor that it had denied her modification request. While it is Mr. Flegel's understanding that Ms. Taylor was intending to resubmit her modification proposal, we have received no confirmation that she did so. Furthermore, Mr. Flegel has been advised that based on a review of her situation, compared to other loan modification requests, there is very little likelihood that SunTrust would approve any re-application.

The City is entitled to repurchase the property for approximately \$343,995. (as of February 2012) pursuant to the terms of the BMR Agreement.

The current amount due and owing on the first deed of trust is approximately \$320,000. The PAL loan is \$66,000.

If the City were to repurchase and resell the unit through the BMR program, it could resell the unit for approximately \$394,009.

SunTrust has indicated that it will not postpone the foreclosure sale for a third time, so we must file the lawsuit in order to protect the City's interest in the property. The City Council, in closed session on June 5, 2012, authorized the City Attorney to initiate litigation against Ms. Taylor to enforce the provisions of the BMR Agreement and to repurchase the unit to prevent the loss of the unit from the BMR program.

IMPACT ON CITY RESOURCES

There are sufficient funds in the City's BMR Fund to cure the default and acquire title to the property. Once the City has title and possession, staff will determine if additional funds will be necessary to get the unit ready for resale in the City's BMR program to another qualified purchaser. The City will receive most, if not all, of the costs upon the resale of the property to another BMR owner.

POLICY ANALYSIS

It is the policy of the City to preserve and maintain all BMR units in the BMR program. Failure to take this action would result in the lender foreclosing and the loss of the unit in the BMR program.

ENVIRONMENTAL REVIEW

This repurchase of the property is exempt from the California Environmental Quality Act (CEQA).



For William L. McClure
City Attorney

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

ATTACHMENTS

A: Resolution

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK APPROPRIATING A TOTAL OF \$350,000 FROM THE BELOW MARKET RATE HOUSING FUND FOR FY 2011-12; AUTHORIZATION OF THE CITY ATTORNEY AND CITY MANAGER TO TAKE ALL STEPS NECESSARY TO CURE AN EXISTING LOAN DEFAULT AND PURCHASE THE PROPERTY AT 1403 SAGE STREET AND RETAIN THE HOME IN THE CITY'S BMR PROGRAM

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,

NOW BE IT AND IT IS HEREBY RESOLVED by the City Council of the City of Menlo Park does hereby authorize amending the Fiscal Year 2011-12 budget appropriating \$350,000 from the Below Market Rate Housing Fund to cure an existing loan default by the property owner of 1403 Sage Street and to purchase the property to preserve it in the BMR program; and hereby authorizes the City Attorney and the City Manager to take any and all actions necessary, including filing a lawsuit to acquire title to the unit in order to retain the house in the City's BMR program, and including but not limited to executing documents to accept a deed for title to the property.

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 12th day of June, 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 12th day of June, 2012.

Margaret S. Roberts, MMC
City Clerk



PUBLIC WORKS DEPARTMENT

Council Meeting Date: June 12, 2012
Staff Report #: 12-087

Agenda Item #: D-4

CONSENT CALENDAR: Adopt a Resolution Accepting Dedication of a Public Access Easement and Authorize the City Manager to Sign the Certificate of Acceptance for the 200 Middlefield Road Frontage Improvements Project

RECOMMENDATION

Staff recommends that the City Council adopt a resolution (Attachment A) accepting dedication of a Public Access Easement and authorize the City Manager to sign the certificate of acceptance for the 200 Middlefield Road frontage improvements project.

BACKGROUND

The 200 Middlefield Road frontage improvements project consists of repairs to the existing concrete valley gutter and asphalt parking area along Santa Margarita Avenue, and the construction of a new concrete sidewalk on the property along Middlefield Road.

ANALYSIS

As a condition of the use permit, the applicant was required to provide public pedestrian access along the Middlefield Road frontage of their property. Since the new public sidewalk is located within the applicant's private property, a Public Access Easement is required to allow the public to use the sidewalk. The easement dedication is shown in Attachment B.

IMPACT ON CITY RESOURCES

The staff time associated with review and acceptance of the easement dedications and access agreement are fully recoverable through fees collected from the applicant.

POLICY ISSUES

The recommendation does not represent any change to existing City policy.

ENVIRONMENTAL REVIEW

The project is categorically exempt under Class I of the current State of California Environmental Quality Act.



Roger K. Storz
Senior Civil Engineer



Ruben R. Niño
Assistant Public Works Director

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
- B. Public Access Easement

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK ACCEPTING A PUBLIC ACCESS EASEMENT AND AUTHORIZING THE CITY MANAGER TO SIGN THE CERTIFICATE OF ACCEPTANCE FOR THE 200 MIDDLEFIELD ROAD FRONTAGE IMPROVEMENTS PROJECT

WHEREAS, the 200 Middlefield Road Frontage Improvements Project consists of repairs to the existing concrete valley gutter and asphalt parking area along Santa Margarita Avenue; and

WHEREAS, the Project includes the construction of a new concrete sidewalk on the property along Middlefield Road; and

WHEREAS, as a condition of the use permit to provide public pedestrian access along the Middlefield frontage; and

WHEREAS, the new public sidewalk is located within the applicant's private property requiring a Public Access Easement to allow the public use of the sidewalk.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the required Public Access Easement along the southerly edge of the property at 200 Middlefield Road and is attached hereto as Exhibit A and incorporated herein by this reference; and

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager to sign the Certificate of Acceptance for said easement.

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 this twelfth day of June, 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 this twelfth day of June, 2012.

Margaret S. Roberts, MMC
City Clerk

RECORDING REQUESTED BY

City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025
Attn: City Clerk

WHEN RECORDED MAIL TO

City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025
Attn: City Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Documentary Transfer Tax: \$-0- No apparent value
"No fee required" (Government Code Section 6103 & 27383)
Recorded for the benefit of the City of Menlo Park.

PUBLIC ACCESS EASEMENT

Middlefield Office Partners Holding Company, LLC., a California Limited Liability Company (hereinafter "Grantor") is the owner of certain real property situated in the City of Menlo Park, County of San Mateo, California, and more commonly known as 200 Middlefield Road, Assessor Parcel Number 062-271-540 (hereafter referred to as the "Servient Tenement").

Grant of Easement

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor hereby grants to the City of Menlo Park, a municipal corporation, in the County of San Mateo, State of California ("Grantee") an easement and right-of-way for public access purposes, including the right of ingress and egress, over, under and across a portion of the Servient Tenement being that certain real property ("Property") situated in said City of Menlo Park and more particularly described and shown in Exhibit A and B, attached hereto and incorporated herein by this reference.

Term

This easement is granted in perpetuity.

Maintenance

Grantor is responsible for maintaining and repairing the Property, including, without limitation, the sidewalk located on the Property, in accordance with City of Menlo Park Municipal Code Title 13.

Nonexclusive Easement

The easement granted in this Agreement is nonexclusive. Grantors retain the right to make any use of the Servient Tenement, including the right to grant concurrent easements in the Servient Tenement to third parties that does not interfere unreasonably with Grantees' free use and enjoyment of the easement.

Reserving to Grantor the continued use of the real property that is subject to the easement granted herein, Grantor agrees for itself, its successors and assigns, not to erect, place or maintain, nor to permit the erection, placement, or maintenance of any buildings, structures or similar improvements that would unreasonably interfere with the ability of Grantee to exercise the access rights granted herein.

Dated May 22, 2012

Middlefield Office Partners Holding
Company, LLC
A California Limited Liability Company

By: 
Title: MANAGING MEMBER

State of California

County of Santa Clara

On May 22, 2012 before me, Ann R. Olin, a notary public, personally appeared Henry D. Bullock who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Ann R. Olin (Seal)

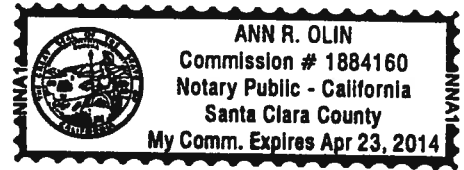


EXHIBIT "A"

**Legal Description
Of
PUBLIC ACCESS EASEMENT**

Being a public access easement across a portion of Lot 7 shown as the acre tract of land in Book A of Maps, page 28, County of San Mateo Records, recorded on June 1, 1898 more particularly described as follows:

Beginning at the POINT OF BEGINNING, the South West corner of Lot 7;

THENCE continuing along the Westerly boundary line of said Lot North 22° 00' 00" East a distance of 16.61 feet to the TRUE POINT OF BEGINNING;

Being at the TRUE POINT OF BEGINNING on the westerly line of said Lot 7;

THENCE North 22° 00' 00" East a distance of 5.00 feet;

THENCE South 68° 00' 00" East a distance of 66.73 feet;

THENCE South 22° 01' 16" West a distance of 4.94 feet;

THENCE South 57° 28' 08" East a distance of 42.29 feet;

THENCE South 57° 32' 21" East a distance of 30.08 feet;

THENCE North 57° 38' 43" East a distance of 56.92 feet;

THENCE South 32° 25' 24" West a distance of 5.50 feet;

THENCE South 08° 47' 55" West a distance of 24.59 feet;

THENCE along the easterly line of said Lot 7, South 22° 00' 00" West, a distance of 0.98 feet, to the south east corner of said Lot 7;

THENCE along the southerly line of said Lot 7 North 57° 25' 00" West a distance of 5.22 feet;

THENCE North 08° 47' 55" East a distance of 24.23 feet;

THENCE North 27° 45' 04" East a distance of 1.28 feet;

THENCE North 57° 38' 43" West a distance of 51.91 feet;

THENCE North 57° 32' 21" West a distance of 30.08 feet;

THENCE North 57° 28' 08" West a distance of 45.87 feet;

THENCE North 22° 01' 16" East a distance of 4.70 feet;

THENCE South 68° 00' 00" West a distance of 62.23 feet to said TRUE POINT OF BEGINNING

Containing an area of 1,193 square feet, more or less.

This description was prepared by me or under my direction in conformance with the Land Surveyor's Act.

As shown on plat attached hereto and made a part hereof as Exhibits "B".

For: BKF Engineers



Martin B. Parissenti, P.E. No. 30747

License expires 03-30-2014

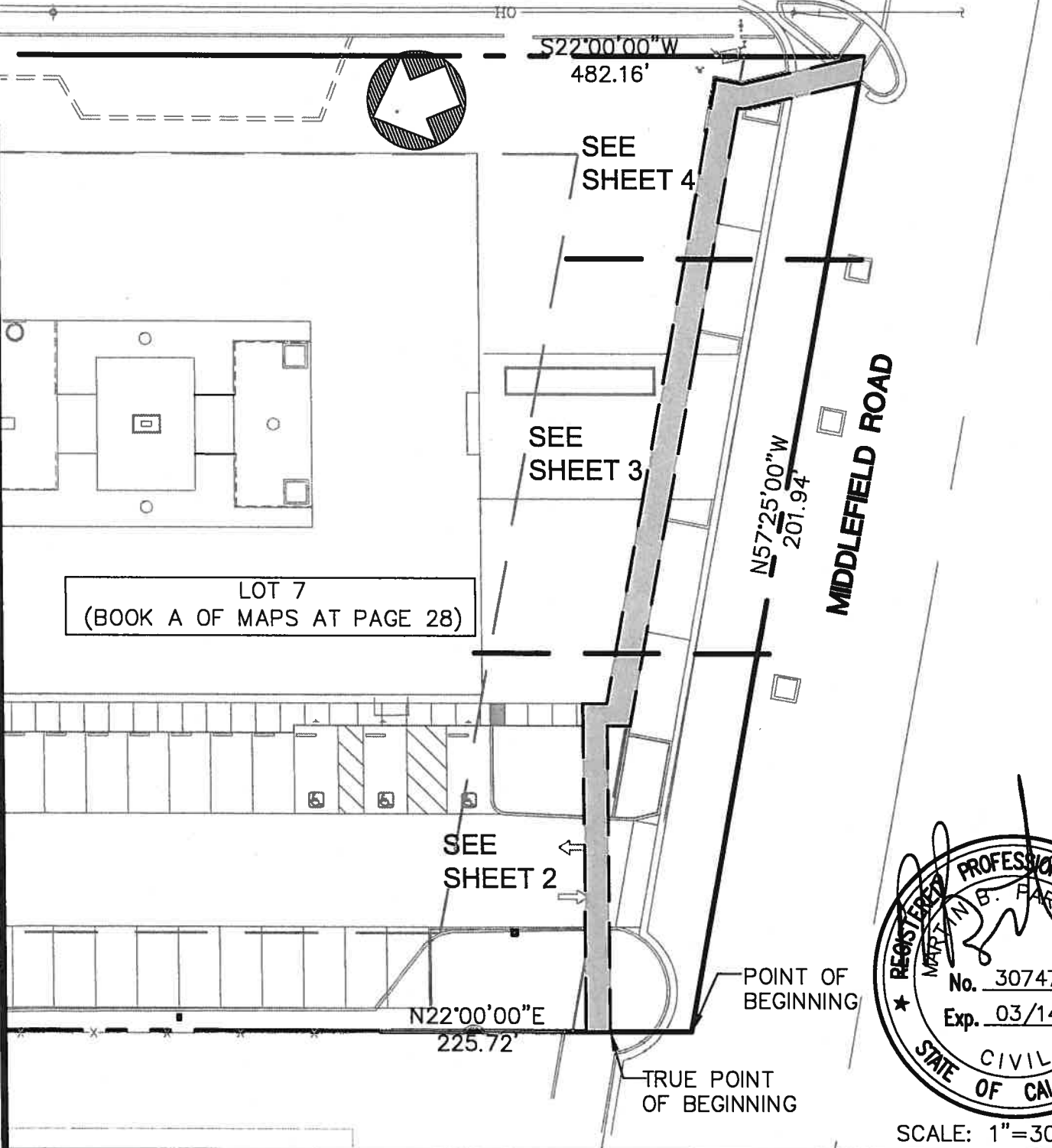
Date:

5/22/12

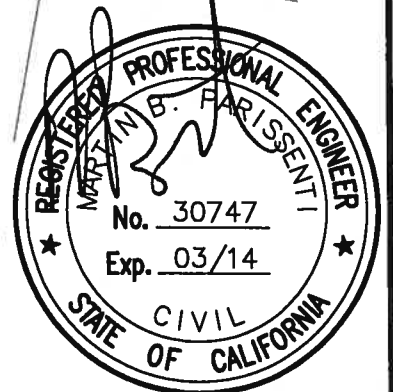


Ave.

SANTA MARGARITA AVE.



LOT 7
(BOOK A OF MAPS AT PAGE 28)



SCALE: 1"=30'

PLOTTED BY: fone



1650 TECHNOLOGY DRIVE
 SUITE 650
 SAN JOSE, CA 95110
 408-467-9100
 408-467-9199 (FAX)

Subject **"EXHIBIT B"**
PUBLIC ACCESS EASEMENT
 Job No. 20116088
 By RF Date 05-15-12 Chkd. MBP
 SHEET 1 OF 4

MATCHLINE SEE SHEET 3

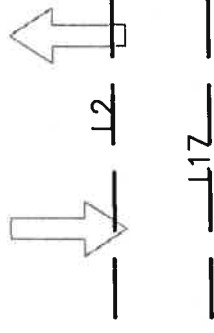


L3

L16

LINE TABLE

No.	Bearing	Length
L1	N22°00'00"E	5.00'
L2	S68°00'00"E	66.73'
L3	S22°01'16"W	4.94'
L16	N22°01'16"E	4.70'
L17	N68°00'00"W	62.23'



MIDDLEFIELD ROAD

POINT OF BEGINNING

N22°00'00"E
16.61'

L1

TRUE POINT OF BEGINNING

SCALE: 1"=10'

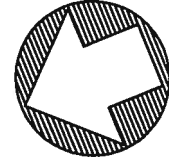
PLOTTED BY: fons



1650 TECHNOLOGY DRIVE
 SUITE 650
 SAN JOSE, CA 95110
 408-467-9100
 408-467-9199 (FAX)

Subject "EXHIBIT B"
PUBLIC ACCESS EASEMENT
 Job No. 20116088
 By RF Date 05-15-12 Chkd. MBP
 SHEET 2 OF 4

MATCHLINE SEE SHEET 4



LINE TABLE		
No.	Bearing	Length
L4	S57°28'08"E	42.29'
L5	S57°32'21"E	30.08'
L14	N57°32'21"W	30.08'
L15	N57°28'08"W	45.87'

MIDDLEFIELD ROAD

MATCHLINE SEE SHEET 2

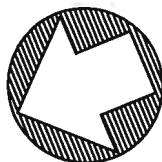
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PLOTTED BY: fms



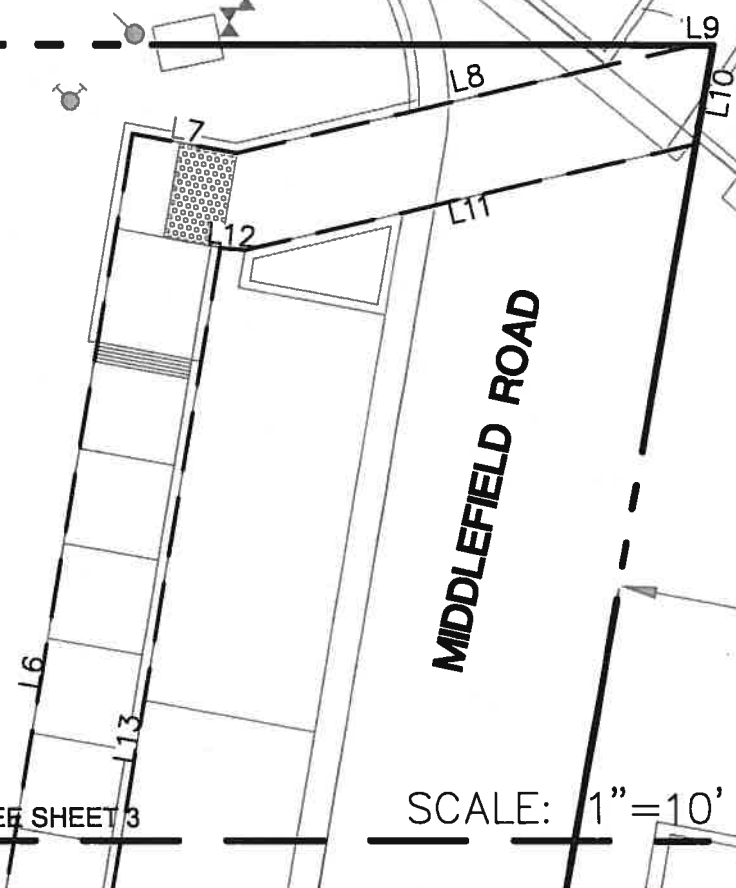
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SAN JOSE, CA 95110
408-467-9100
408-467-9199 (FAX)

Subject **"EXHIBIT B"**
PUBLIC ACCESS EASEMENT
Job No. 20116088
By RF Date 05-15-12 Chkd. MBP
SHEET 3 OF 4



SANTA MARGARITA AVE.

LINE TABLE		
No.	Bearing	Length
L6	S57°38'43"E	56.92'
L7	S32°25'24"W	5.50'
L8	S08°47'55"W	24.59'
L9	S22°00'00"W	0.98'
L10	N57°25'00"W	5.22'
L11	N08°47'55"E	24.23'
L12	N27°45'04"E	1.28'
L13	N57°38'43"W	51.91'



MATCHLINE SEE SHEET 3

SCALE: 1"=10'

PLOTTED BY: fons



1650 TECHNOLOGY DRIVE
 SUITE 650
 SAN JOSE, CA 95110
 408-467-9100
 408-467-9199 (FAX)

Subject **"EXHIBIT B"**
PUBLIC ACCESS EASEMENT
 Job No. 20116088
 By RF Date 05-15-12 Chkd. MBP
 SHEET 4 OF 4



PUBLIC WORKS DEPARTMENT

Council Meeting Date: June 12, 2012
Staff Report #: 12-097

Agenda Item #: D-5

CONSENT CALENDAR: Adopt Resolutions Supporting the Willow Road/US 101 Interchange Project and the Sand Hill Road Signal Interconnect Project and Submitting an Application for Measure A Highway Program Funding for the Willow Road/US 101 Interchange Project and the Sand Hill Road Signal Interconnect Project

RECOMMENDATION

Staff recommends that Council adopt resolutions (Attachments A and B) supporting the Willow Road/US 101 Interchange Project and the Sand Hill Road Signal Interconnect Project and submitting an application for Measure A Highway Program Funding for the Willow Road/US 101 Interchange Project and the Sand Hill Road Signal Interconnect Project, and authorizing the City Manager to execute the necessary funding agreements.

BACKGROUND

The City is submitting two applications for the Measure A Highway Program funding. To provide funding for project management consulting services to the City for the environmental phase of the Willow Road/US 101 Interchange Improvement Project. The other application would fund the design, construction, and inspection phases of the Sand Hill Road Signal Interconnect Project.

Willow Road is classified as a major arterial east of the Willow Road/US 101 interchange and a minor arterial west of the Willow Road/US 101 interchange. Approximately 30,000 vehicles per day travel on Willow Road between Middlefield Road and Bayfront Expressway.

Sand Hill Road is classified as a major arterial between Santa Cruz Avenue and I-280 on/off ramps. Approximately 30,800 vehicles per day travel along Sand Hill Road during the weekdays.

The San Mateo County Transportation Authority (SMCTA) issued a Cycle 1 Call for Projects on May 25, 2012 for the Measure A Highway Program. In general, highway and roadway improvements on congested commute corridors are eligible for Highway Program funds. The focus of this Program is to remove bottlenecks in the most congested highway commute corridors, and reduce congestion and improve throughout

critical congested commute corridors. Maintenance and rehabilitation projects for highways and roadways are not eligible. The specific eligibility for each funding track is described below:

Original Measure A

Eligibility is limited to projects listed in the 1988 Expenditure Plan which are actively progressing.

Key Congested Areas (KCA)

Eligibility is restricted to the 11 projects within the five KCAs as specified in the San Mateo County Transportation Authority's Short Range Highway Program (SRHP).

Supplemental Roadways (SR)

Any project not eligible for the KCA is eligible for the SR category as long as it is intended to reduce congestion and improve throughput along critical congested commute corridors. While there is a list of SR candidate projects included in the SRHP, this list is not exhaustive and inclusion as a candidate project does not imply any priority.

Attachment C provides the eligible project list, projects not shown on this list may be eligible as well.

ANALYSIS

The Willow Road/US 101 interchange project is included in the list of eligible candidate projects in the Original Measure A 1998 Expenditure Plan. Sand Hill Road Signal Interconnect Project is included as an eligible project in the SMCTA's Short-range Highway Plan (2011-2021) for new Measure A funds. The SMCTA requires agencies that apply for funding as the sponsor agency to provide a resolution in support of the project application. The resolution would affirm the sponsor agency's support for the overall project, and the sponsor's role for the project scope. The approved governing board resolutions are due by July 27, 2012.

Willow Road /US 101 Interchange Project

The Willow Road/US 101 interchange improvement project is being led by Caltrans and is currently in the conceptual stage of the project. Traffic modeling and traffic operational analysis is currently underway in the conceptual stage. The operational analysis is considering six alternative configurations for the interchange. The configurations are designed to minimize the overall traffic impacts to both the local streets and the freeway as well as improve bicycle and pedestrian access. Some of the alternatives could involve right-of-way impacts to adjacent property owners, while some of the alternatives minimize the impacts to right of way. The environmental phase of the project will assess all the impacts associated with the various alternatives in further detail and provide public outreach in the review process. Caltrans is considering scheduling a public scoping meeting in the near future in Menlo Park and East Palo Alto to review the alternatives with the public.

According to the SMCTA, there are approximately \$22 million in State Transportation Improvement Program (STIP) funds and Measure A funds programmed to this project through C/CAG for the environmental and design and construction phases of the project. Approximately \$3.58m of the \$22m is guaranteed funding for environmental and design phases of the project. The environmental phase of the project will take approximately 3-4 years to complete. The construction funding for the project is included in the STIP, but is subject to change and the construction cost could potentially be higher. Additional funding or any change in STIP funding would allow a request for construction funding through Measure A. As part of this project scope and funding application request, the City is requesting \$500,000 in Measure A Highway Program funding for a civil consulting firm to assist the City in providing project management support for the project and coordinating with the stakeholders and the lead agency (Caltrans or C/CAG) during the environmental phase of the project.

Sand Hill Road Signal Interconnect Project

The Sand Hill Road Signal Interconnect Project would reduce congestion and improve the progression of traffic during the morning and evening commute hours by coordinating the six traffic signalized intersections between the Sand Hill Road/SH 280 on/off ramps and Sand Hill Road/Santa Cruz Avenue intersection. The project would install fiber optic cable between the traffic signal controller cabinets to communicate between each other, video surveillance cameras for remote monitoring and fine-tuning of the intersections, and implement adaptive signal operation between these intersections. As part of this project's scope, the City is requesting \$1,300,000 in Measure A Highway Program funding to design, construct, and inspect the project. The City is currently operating adaptive signal operations between Sand Hill Road/Santa Cruz and Sand Hill Road/Oak Avenue traffic signals.

The funding breakdown for the Willow Road/US 101 Interchange Project funding application is as follows:

TA Measure A Highway funds	\$ 500,000	(consultant project management services)
City matching funds	\$ 100,000	(in-kind staff time)
STIP matching funds	<u>\$3,500,000</u>	(programmed for Environmental and Design phases)
Total	\$4,100,000	

The funding breakdown for the Sand Hill Road Signal Interconnect Project is as follows:

TA Measure A Highway funds	\$1,300,000	
City matching funds	<u>\$ 100,000</u>	(TIF funds)
Total	\$1,400,000	

The City matching funds have been identified from the Transportation Impact Fee (TIF) funds. There are currently \$3.1 million available in the balance of TIF funds. The next steps are to complete the application for the two proposals by June 29th. If the City is awarded the funding for both projects, City staff will need to return to Council to accept the funds.

IMPACT ON CITY RESOURCES

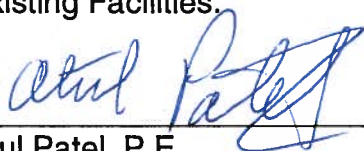
There is not a requirement for City matching funds for this funding request; however matching funds provide a higher likelihood of receiving the grant. The City funds for this project are not budgeted. The funding would need to be allocated if the grant is accepted.

POLICY ISSUES

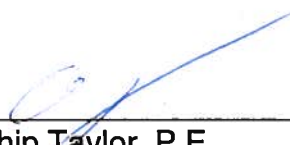
The project is consistent with the City of Menlo Park General Plan, Sections II-A-12 and II-D.

ENVIRONMENTAL REVIEW

The Willow Road/US 101 Interchange Project will begin the CEQA environmental review once the conceptual studies are completed by Caltrans. The Sand Hill Road Signal Interconnect Project is anticipated to be categorically exempt per Section 15301 Existing Facilities.



Atul Patel, P.E.
Senior Transportation Engineer



Chip Taylor, P.E.
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.

ATTACHMENTS:

- A. Resolution Regarding the Willow/US 101 Interchange Project
- B. Resolution Regarding the Sand Hill Road Signal Interconnect Project
- C. Eligible project List

RESOLUTION NO.

ADOPT A RESOLUTION SUPPORTING THE WILLOW/US 101 INTERCHANGE PROJECT AND SUBMITTING AN APPLICATION FOR MEASURE A HIGHWAY PROGRAM FUNDING FOR THE WILLOW/US 101 INTERCHANGE PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE FUNDING AGREEMENT

WHEREAS, there is increased congestion at the interchange of US 101 and Willow Road; and

WHEREAS, there is a proposed Caltrans project to improve the traffic operation at the interchange; and

WHEREAS, it will cost \$500,000 for consultant management services to assist the City during the environmental phase to provide project management for the City; and

WHEREAS, the City wishes to sponsor the implementation of the consultant management services for the Willow Road/US 101 interchange project; and

WHEREAS, the City seeks \$500,000 for consultant management services to assist the City during the environmental phase of the project to provide project management services for the City; and

WHEREAS, on June 7, 1988, the voters of San Mateo County approved a ballot measure to allow the collection and distribution by the San Mateo County Transportation Authority (TA) of a half-cent transactions and use tax in San Mateo County for 25 years, with the tax revenues to be used for highway and transit improvements pursuant to the Transportation Expenditure Plan presented to the voters (Original Measure A); and

WHEREAS, on November 2, 2004, the voters of San Mateo County approved the continuation of the collection and distribution by the TA the half-cent transactions and use tax for an additional 25 years to implement the 2004 Transportation Expenditure Plan beginning January 1, 2009 (New Measure A); and

WHEREAS, TA issued a Call for Projects for the Measure A Highway Program funds on May 24, 2012; and

WHEREAS, TA requires a governing board resolution from the City in support of the City's application for \$500,000 in San Mateo County Measure A Highway Program funds for consultant management services to assist the City during the environmental phase to provide project management for the City; and

WHEREAS, TA requires a governing board resolution from the City committing the City to the completion of the project scope.

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

1. Supports the overall concept of the project, pending the environmental review, and its goal to improve the traffic operations and air quality along US 101 and along Willow Road near the interchange.
2. Directs staff to submit an application for San Mateo County Measure A Highway for \$500,000 for providing the consultant management services to assist the City during the environmental phase to provide project management for the City.
3. Authorizes the City Manager to execute a funding agreement with the San Mateo County Transportation Authority to encumber any Measure A Highway Program funds awarded.
4. Let it be known the City of Menlo Park commits to the completion of the project scope if awarded the requested San Mateo County Measure A Highway Program funds

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Menlo Park, California, held on the twelfth day of June, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS THEREOF, I have hereunto set my hand and affixed the Official Seal of said City, this twelfth day of June, 2012.

Margaret S. Roberts, MMC
City Clerk

RESOLUTION NO.

ADOPT A RESOLUTION SUPPORTING THE SAND HILL ROAD SIGNAL INTERCONNECT PROJECT AND SUBMITTING AN APPLICATION FOR MEASURE A HIGHWAY PROGRAM FUNDING FOR THE SAND HILL ROAD SIGNAL INTERCONNECT PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE FUNDING AGREEMENT

WHEREAS, there is increased congestion along Sand Hill Road; and

WHEREAS, there is a proposed City Capital Improvement project to address the issue; and

WHEREAS, it will cost \$1,300,000 to design and construct the project; and

WHEREAS, the City wishes to sponsor the implementation of the design and construction phases of the project; and

WHEREAS, the City seeks \$1,300,000 for design and construction phases of the project; and

WHEREAS, on June 7, 1988, the voters of San Mateo County approved a ballot measure to allow the collection and distribution by the San Mateo County Transportation Authority (TA) of a half-cent transactions and use tax in San Mateo County for 25 years, with the tax revenues to be used for highway and transit improvements pursuant to the Transportation Expenditure Plan presented to the voters (Original Measure A); and

WHEREAS, on November 2, 2004, the voters of San Mateo County approved the continuation of the collection and distribution by the TA the half-cent transactions and use tax for an additional 25 years to implement the 2004 Transportation Expenditure Plan beginning January 1, 2009 (New Measure A); and

WHEREAS, TA issued a Call for Projects for the Measure A Highway Program funds on May 24, 2012; and

WHEREAS, TA requires a governing board resolution from the City in support of the City's application for \$1,000,000 in San Mateo County Measure A Highway Program funds for the design and construction phases of the project; and

WHEREAS, TA requires a governing board resolution from the City committing the City to the completion of the project scope.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Menlo Park resolves as follows:

1. Fully supports the project and the goal to decrease congestion and delay along the Sand Hill Road corridor.
2. Directs staff to submit an application for San Mateo County Measure A Highway for \$1,300,000 for providing the design and construction of the Sand Hill Road signal interconnect project for the City.
3. Authorizes the City Manager to execute a funding agreement with the San Mateo County Transportation Authority to encumber any Measure A Highway Program funds awarded.
4. Let it be known the City of Menlo Park commits to the completion of the project scope if awarded the requested San Mateo County Measure A Highway Program funds

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Menlo Park, California, held on the twelfth day of June, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS THEREOF, I have hereunto set my hand and affixed the Official Seal of said City, this twelfth day of June, 2012.

Margaret S. Roberts, MMC
City Clerk

ATTACHMENT C

Eligible Project List for Measure A Highway Program

Note: Projects not listed here may be eligible for SR funding

Hwy	Project Name	Location	Original Measure A	New Measure A	
				KCA	SR: Listed candidates
1	SR 1 Fassler-Westport (Calera)	Pacifica	x		
1	SR 1 San Pedro Creek Bridge Replacement	Pacifica		x	
1	SR 1 Manor Drive Overcrossing widening	Pacifica		x	
35	SR 35 - widening from I-280 to Sneath Lane	San Bruno			x
84	Bayfront Expressway - widen to 4 lanes between Marsh and Woodside	Redwood City			e*
84	Woodside Rd widening from US 101 to El Camino Real	Redwood City			x
92	SR 92 Half Moon Bay to Pilarcitos Creek - curve correction	Half Moon Bay, County			e*
92	SR 1 / SR 92 safety and operational improvements within and near Half Moon Bay	Half Moon Bay, County		x	
92	SR 92 Truck climbing lane from I-280 to SR 35	County			x
92	SR 92 improvements between I-280 and US 101	San Mateo, County	x		
92	SR 92 auxiliary lanes & interchange improvements between I-280 and the San Mateo Hayward Bridge	San Mateo		x	
101	US 101 Candlestick Pt interchange	Brisbane	x		x
101	US 101 Produce Ave interchange	South San Francisco			x
101	US 101 Broadway interchange	Burlingame	x	x	
101	US 101 Peninsula Ave Interchange	Burlingame, San Mateo		x	
101	US 101 Sierra Pt Pkwy interchange and Lagoon Way extension	Brisbane			x
101	US 101 auxiliary lanes from SF county line to Sierra Pt Pkwy	Brisbane			x
101	US 101 auxiliary lanes from Sierra Pt Pkwy to San Bruno Ave	Brisbane, South San Francisco			x
101	US 101 auxiliary lanes from Oyster Point to SF county line	Brisbane, South San Francisco	x		
101	US 101 operational improvements from Hillsdale to SR 92	San Mateo		x	
101	US 101 Woodside Road (SR 84) Interchange	Redwood City	x	x	
101	US 101 Willow Rd interchange	Menlo Park	x		
101	US 101 improvements between SR 84 and the Santa Clara county line; and Dumbarton Bridge access improvements	Menlo Park, East Palo Alto		x	
280	I-280/SR1 Interchange	Daly City		x	
280	I-280 John Daly Blvd overcrossing widening (northside)	Daly City			x
280	I-280/I-380 interchange access/transition improvements	San Bruno			x
280	I-280 auxiliary lanes between I-380 and Hickey Blvd.	San Bruno, South San Francisco		x	
Local	Sand Hill Rd signal coordination	Menlo Park			x
Local	Willow Rd adaptive signal controls	Menlo Park			x
Local	Triton Drive widening	Foster City			x
Local	Geneva Ave extension	Brisbane			x

*e: Inactive Original Measure A project which would be eligible for SR funds.

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COMMUNITY DEVELOPMENT DEPARTMENT

Council Meeting Date: June 12, 2012

Staff Report #: 12-098

Agenda Item #: D-6

CONSENT CALENDAR: Waive the Reading and Adopt an Ordinance Amending Title 16 of the Menlo Park Municipal Code to Incorporate the El Camino Real/Downtown Specific Plan, and Ordinances Rezoning Properties Located in the El Camino Real/Downtown Specific Plan Area

RECOMMENDATION

Staff recommends that the City Council waive the full reading of and adopt an ordinance amending Title 16 of the Menlo Park Municipal Code to incorporate the El Camino Real/Downtown Specific Plan and make associated text revisions, and ordinances rezoning properties located in the El Camino Real/Downtown Specific Plan Area.

BACKGROUND

At the June 5, 2012 City Council meeting, the Council acted or voted to approve the El Camino Real/Downtown Specific Plan by taking the following actions:

1. Certification of the Final Environmental Impact Report (EIR), adoption of the Mitigation Monitoring and Reporting Program (MMRP), and making the Findings and adopting the Statement of Overriding Considerations for the El Camino Real/Downtown Specific Plan.
2. Amending the General Plan to Add the El Camino Real/Downtown Specific Plan Land Use Designation and to Change the Land Use Designation for Properties Located in the Specific Plan Area.
3. Approving and Adopting the El Camino Real/Downtown Specific Plan.
4. Introducing an Ordinance of the City of Menlo Park, Amending Title 16 of the Menlo Park Municipal Code to Incorporate the El Camino Real/Downtown Specific Plan and make associated text revisions.
5. Introducing an Ordinance of the City of Menlo Park, Rezoning Properties Located in the El Camino Real/Downtown Specific Plan Area.
6. Amending the City's Master Fee Schedule to Incorporate Proposed Changes in Fees to Become Effective August 5, 2012.

Actions #2, 3, and 5 were segmented geographically in order to address conflicts-of-interest for Vice Mayor Ohtaki and Council Member Fergusson, who also fully recused themselves from Action #1. With the exception of Action #1 (passed 2-0-1, with Council Member Cohen abstaining), all votes were unanimous.

As indicated in Actions #4 and 5, the City Council introduced ordinances, which require both a first and second reading. As a result, these actions are before the City Council again for the second reading and approval. As part of the June 5 actions, the City Council also directed changes to the Specific Plan and its implementation. The preliminary wording of these changes is included as Attachment C for reference, although these modifications do not affect the ordinances.

ANALYSIS

The ordinance amending Title 16 of the Menlo Park Municipal Code to incorporate the El Camino Real/Downtown Specific Plan and make associated text revisions is included as Attachment A. All Council Members may act on this component.

The ordinances rezoning properties located in the El Camino Real/Downtown Specific Plan Area are segmented geographically and are included as Attachments B.1 through B.3. However, it is not required that this agenda item be pulled in order to conduct separate votes. Before any action, Vice Mayor Ohtaki and Council Member Fergusson should verbally state their conflicts-of-interest and note that they are not acting on the conflicted parts of the rezoning ordinances.

If the Council takes action to adopt the ordinances, they will become effective 30 days later, or on July 12, 2012.

IMPACT ON CITY RESOURCES

There is no direct impact on City resources associated with adoption of these ordinances. The overall project's impact on City resources was discussed in detail in the June 5, 2012 staff report.

POLICY ISSUES

The recommended action is consistent with the City Council's actions and approvals at its meeting of June 5, 2012 and would serve to complete the approval of the El Camino Real/Downtown Specific Plan.

ENVIRONMENTAL REVIEW

On June 5, 2012, the City Council made a motion to certify the Final Environmental Impact Report (EIR), adopt the Mitigation Monitoring and Reporting Program (MMRP), and make the Findings and adopt the Statement of Overriding Considerations for the El Camino Real/Downtown Specific Plan.



Thomas Rogers
Associate Planner



Arlinda Heineck
Community Development Department

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting. In addition to the agenda posting, an email update was sent to subscribers of the project page, which is available at the following address: <http://www.menlopark.org/specificplan>. This page provides up-to-date information about the project, allowing interested parties to stay informed of its progress. The page allows users to sign up for automatic email bulletins, notifying them when content is updated and meetings are scheduled. The project list currently has 975 subscribers.

ATTACHMENTS

- A. [Ordinance of the City of Menlo Park, Amending Title 16 of the Menlo Park Municipal Code to Incorporate the El Camino Real/Downtown Specific Plan](#)
- B. Ordinances of the City of Menlo Park, Rezoning Properties Located in the El Camino Real/Downtown Specific Plan Area
 1. [Applicable to All Specific Plan Districts Except El Camino Real South-East and South-West](#)
 2. [Applicable to the El Camino Real South-East District](#)
 3. [Applicable to the El Camino Real South-West District](#)
- C. [Specific Plan/Implementation Changes Made by City Council at the June 5, 2012 Meeting](#)

EL CAMINO REAL/DOWNTOWN SPECIFIC PLAN
CITY COUNCIL
JUNE 12, 2012

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF MENLO PARK, AMENDING TITLE
16 OF THE MENLO PARK MUNICIPAL CODE TO INCORPORATE THE
EL CAMINO REAL/DOWNTOWN SPECIFIC PLAN

The City Council of the City of Menlo Park does ordain as follows:

SECTION 1. The following section of Title 16, Zoning, Chapter 16.04, *Definitions*, of the Menlo Park Municipal Code is hereby amended to read as follows:

16.04.010 Generally. For the purposes of this chapter certain terms are defined. Where terms are defined in a specific zoning district, they shall be applied accordingly. Words used in the present tense include the future; words used in the singular include the plural; "shall" is mandatory, "may" is permissive. Definitions of the terms used in this title are set forth as follows; provided, however, that terms not specifically defined in this chapter shall be as defined in the code.

SECTION 2. Title 16, Zoning, Chapter 16.08, *Districts Established-General Regulations*, Section 16.08.010 *Districts Established – Designated*, of the Menlo Park Municipal Code is hereby amended to add "SP-ECR/D El Camino Real/Downtown Specific Plan" at the end of the list and delete the following:

- R-C Mixed Use District
- C-1-B Administrative, Professional and Service District
- C-3 Central Commercial District

SECTION 3. The following sections of Title 16, Zoning, Chapter 16.08, *Districts Established-General Regulations*, of the Menlo Park Municipal Code is hereby amended to read as follows:

16.08.080 Home occupations. Home occupations, as defined in Section 16.04.340, may be permitted in residential districts and in residences within the SP-ECR/D district, provided a permit is obtained from the department of community development. Such permits shall be valid for a period of one year, shall be subject to the conditions contained therein and shall be subject to the payment of a fee, as established by the city council.

16.08.095 Roof-mounted equipment. Mechanical equipment, such as air conditioning equipment, ventilation fans, vents, ducting, or similar equipment may be placed on the roof of a building provided that such equipment shall be screened from

view as observed at an eye level horizontal to the top of the roof-mounted equipment, except for the SP-ECR/D District which has unique screening requirements, and all sounds emitted by such equipment shall not exceed 50 decibels at a distance of 50 feet from such equipment.

SECTION 4. Title 16, *Zoning*, of the Menlo Park Municipal Code is hereby amended to delete the following chapters in their entirety:

Chapter 16.27	R-C Mixed Use District
Chapter 16.34	C-1-B Administrative, Professional, and Service District
Chapter 16.41	C-3 Central Commercial District

SECTION 5. Title 16, *Zoning*, of the Menlo Park Municipal Code is hereby amended to renumber Chapter 16.58 *Lots*, inclusive of all subsections, to Chapter 16.59.

SECTION 6. Title 16, *Zoning*, of the Menlo Park Municipal Code is hereby amended to add the following chapter:

Chapter 16.58

SP-ECR/D EL CAMINO REAL/DOWNTOWN SPECIFIC PLAN

Sections:

16.57.010 Purpose

16.57.020 El Camino Real/Downtown Specific Plan

16.57.010 Purpose. The purpose and intent of the El Camino Real/Downtown Specific Plan District is to preserve and enhance community life, character and vitality through public space improvements, mixed use infill projects sensitive to the small-town character of Menlo Park and improved connectivity.

16.57.020 El Camino Real/Downtown Specific Plan. Uses, development regulations, guidelines, definitions, off-street parking requirements, and other parameters for public and private development are established through the El Camino Real/Downtown Specific Plan. All modifications to this Ordinance or to the El Camino Real/Downtown Specific Plan require review and recommendation by the Planning Commission and review and approval by the City Council through public hearings in accordance with Chapter 16.88 and applicable law.

SECTION 7. The following section of Title 16, *Zoning*, Chapter 16.68, *Buildings*, of the Menlo Park Municipal Code is hereby amended to read as follows:

16.68.020 Architectural control. When an application is made for a building permit for the construction, alteration or remodeling of any building other than a single family dwelling, duplex and accessory building, or for any structure, dwelling or duplex on land

designated as a historic landmark site, it shall be accompanied by architectural drawings showing elevations of the proposed building or structure, proposed landscaping or other treatment of the grounds around such building or structure, and proposed design of, and access to, required parking facilities. Such drawings shall be considered by the planning commission, architectural committee, or community development director which shall approve said application if the following findings are made:

- (1) That the general appearance of the structures is in keeping with character of the neighborhood;
- (2) That the development will not be detrimental to the harmonious and orderly growth of the city;
- (3) That the development will not impair the desirability of investment or occupation in the neighborhood;
- (4) That the development provides adequate parking as required in all applicable city ordinances and has made adequate provisions for access to such parking.
- (5) That the development is consistent with any applicable Specific Plan.

The community development director shall be limited to approving minor modifications to buildings located in the M-2 General Industrial District. For purposes of this Section, a minor modification is considered one in which there is no increase in gross floor area.

Each request to alter a site or area and each application for a building permit to do work on a historic landmark site shall include plans and specifications showing the proposed landscaping or planting changes, exterior appearance, color and texture of materials, and architectural design and detail; drawings or photographs showing the property or site in the context of its surroundings may also be required. The application shall be considered by the planning commission or architectural committee which shall approve said application if the following findings are made:

- (1) That the proposed work is appropriate to and consistent with the purposes of Chapter 16.54, historic landmark site district;
- (2) That the proposed work will preserve, enhance or restore, and shall not damage or destroy (a) the exterior architectural features of the landmark, and (b) the major interior architectural features of a publicly owned landmark.

No building permit shall be issued in any case herein above mentioned until such findings have been made by the planning commission. All buildings, structures, alterations and other improvements shall be constructed in accordance with the approved drawings.

SECTION 8. The following sections of Title 16, Zoning, Chapter 16.72, *Off-Street Parking*, of the Menlo Park Municipal Code are hereby amended to read as follows:

Sections:

- 16.72.010 Requirements generally.
- 16.72.020 R district uses.

- 16.72.030 Professional district uses.
- 16.72.040 C-2, C-2-A, C-2-B, ~~C-3~~ and C-4 districts.
- 16.72.045 M-1 district uses.
- 16.72.050 M-2 district uses.
- 16.72.060 Public utility facilities.
- 16.72.080 Other uses.

16.72.030 Professional district uses. Professional district uses are as follows:

- (1) C-1, ~~and~~ C-1-A, ~~and~~ ~~C-1-B~~ districts: One space per two hundred square feet of gross floor area, not in any required yard abutting a street;
- (2) C-1-C district: One space per two hundred fifty square feet of gross floor area, not in any required yard abutting a street and not in the exterior one-half of any required yard or loading area.

16.72.040 C-2, C-2-A, C-2-B, ~~C-3~~ and C-4 district uses. C-2, C-2-A, C-2-B, ~~C-3~~ and C-4 district uses are as follows: six spaces per one thousand square feet of gross floor area, not in any required yard or loading area.

SECTION 9. Title 16, Zoning, Chapter 16.80, *Nonconforming Uses and Structures, Sections* of the Menlo Park Municipal Code is hereby amended to add “16.80.120 Exemption from El Camino Real/Downtown Specific Plan”.

SECTION 10. Title 16, Zoning, Chapter 16.80, *Nonconforming Uses and Structures, Section 16.80.045 Replacement* is amended to read as follows:

16.80.045 Replacement. The same number of units may replace existing legal nonconforming residential units that are removed or demolished for new development, in the R-2, R-3, R-3-A, ~~and~~ R-3-C, ~~and~~ ~~R-C~~ zoning districts, provided the new development is done in accordance with applicable zoning development regulations, building codes and a use permit is obtained therefore. Existing, nonconforming parking conditions may continue to exist if approved by the use permit.

SECTION 11. Title 16, Zoning, Chapter 16.80, *Nonconforming Uses and Structures*, is amended to add the following new section.

16.80.120 Exemption from the El Camino Real/Downtown Specific Plan in the SP-ECR/D district.

- (a) All buildings in existence or approved within the SP-ECR/D district as of the date of adoption of the El Camino Real/Downtown Specific Plan, on _____, shall be exempt from the development standards of El Camino Real/Downtown Specific Plan.
- (b) No building exempt under subsection (a) of this section shall be subject to amortization by reason of a building that is nonconforming due to the development standards of the El Camino Real/Downtown Specific Plan specified in subsection (a) of this section.

- (c) Any building exempt under subsection (a) of this section may be restored to its condition at the time of destruction if the building or office use is destroyed by fire, explosion, or other catastrophe, but such restoration shall comply with:
 - (1) The building codes in effect at the time of restoration; and
 - (2) The requirements of Section 16.80.040 with respect to nonconformities other than a nonconformity created as a result of the development standards of the El Camino Real/Downtown Specific Plan specified in subsection (a) of this section.
- (d) Any building which is exempt under subsection (a) of this section may undergo removal on one or more occasions following said date of adoption of a cumulative total of not more than 50% of the gross floor area and the replacement of part or all of the portions removed. The exemption shall terminate upon the removal or replacement on one or more occasions of a cumulative total of more than 50% of the gross floor area of the building.
- (e) Except as provided in this subsection, any building exempt under subsection (a) of this section may undergo interior and/or exterior improvements to the building if there is no increase in the gross floor area.
- (f) Properties within the SP-ECR/D district that are regulated by a Use Permit, Conditional Development Permit (CDP), or Planned Development (P-D) Permit as of the date of adoption of the El Camino Real/Downtown Specific Plan on _____, shall continue to be regulated by said permit(s). Such permit(s) shall lapse upon comprehensive redevelopment of the property, or property owners may apply to modify or cancel said permit(s) in accordance with the requirements of this title.

SECTION 12. The following sections of Title 16, Zoning, Chapter 16.82, *Permits*, of the Menlo Park Municipal Code are hereby amended to read as follows:

II. CONDITIONAL DEVELOPMENT PERMITS

16.82.055 Applicability. A Conditional Development Permit shall apply to the following:

- (a) Development on a parcel in excess of one acre in area; or
- (b) Development on a parcel with a lot area that is less than one acre in area but greater than or equal to 20,000 square feet in area, provided that the development complies with the Below Market Rate (BMR) Housing Program set forth in Section 16.96 and that the number of BMR units developed on the site exceeds the required number of BMR units by a fractional equivalent of more than one-half (0.5) of a unit.

Conditional development permits shall not apply to any parcel in the SP-ECR/D district.

VI. VARIANCES

16.82.340 Purpose of the variance and required findings.

- (a) Purpose. The purpose of the variance is to allow variation from the strict application of the terms of this title where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property, or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or by reason of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this title would cause undue hardship unnecessary to carry out the spirit and purpose of this title. In no case shall a variance be granted to permit a use other than a use permitted in the district involved or to permit relief in excess of fifty percent of any requirement of this title. In the SP-ECR/D district, in no case shall a variance be granted to exceed the intensity (Floor Area Ratio) or density (dwelling units per acre) standards.
- (b) Findings. The planning commission shall grant a variance only when all of the following conditions are found:
 - (1) That a hardship peculiar to the property and not created by any act of the owner exists. In this context, personal, family or financial difficulties, loss of prospective profits and neighboring violations are not hardships justifying a variance. Further, a previous variance can never have set a precedent, for each case must be considered only on its individual merits;
 - (2) That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the same vicinity and that a variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his/her neighbors;
 - (3) That the granting of the variance will not be materially detrimental to the public health, safety, or welfare, or will not impair an adequate supply of light and air to adjacent property;
 - (4) That the conditions upon which the requested variance is based would not be applicable, generally, to other property within the same zoning classification.
 - (5) That the condition upon which the requested variance is based is an unusual factor that was not anticipated or discussed in detail during any applicable Specific Plan process.

SECTION 13. Projects which have submitted a complete application for a discretionary land use entitlement or building permit prior to (approved date of ordinance amendment), 2012 shall be exempt from the provisions of this ordinance, provided the project obtains a use permit or building permit within one year from such date, or such further extended date approved by the Planning Commission. The Planning Commission may extend the effective date of this exemption upon the request of the applicant, if the Planning Commission finds that there is good cause for the extension of such one-year period based upon unusual circumstance and/or conditions not of the making of the applicant or its agents or employees.

SECTION 14. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 15. This ordinance shall become effective thirty (30) days after the date of its adoption. Within fifteen (15) days of its adoption, the ordinance shall be posted in three (3) public places within the City of Menlo Park, and the ordinance, or a summary of the ordinance prepared by the City Attorney, shall be published in a local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the fifth day of June, 2012.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of the City Council of the City of Menlo Park on the __ day of _____, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Kirsten Keith
Mayor, City of Menlo Park

ATTEST:

Margaret S. Roberts, MMC
City Clerk

**EL CAMINO REAL/DOWNTOWN SPECIFIC PLAN
CITY COUNCIL
JUNE 12, 2012**

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF MENLO PARK, REZONING PROPERTIES LOCATED IN THE EL CAMINO REAL/DOWNTOWN SPECIFIC PLAN AREA (APPLICABLE TO ALL SPECIFIC PLAN DISTRICTS EXCEPT EL CAMINO REAL SOUTH-EAST AND SOUTH-WEST)

The City Council of the City of Menlo Park does ordain as follows:

SECTION 1. The zoning map of the City of Menlo Park is hereby amended such that certain real property currently zoned/described as: all C-3; all C-1-B, all R-C, all P located between Oak Grove Avenue, Menlo Avenue, University Drive and El Camino Real; all R-3-C fronting on Menlo Avenue, several R-3 parcels either fronting on El Camino Real or that adjoin El-Camino-Real-fronting parcels between Menlo/Ravenswood Avenue and the northern boundary of the City of Menlo Park; the C-1-A parcels located at 530 Oak Grove Avenue (061-402-160) and 1600 El Camino Real (060-344-260); and all C-4 (ECR) and P-D located along El Camino Real, between Menlo/Ravenswood Avenue and the northern boundary of the City of Menlo Park, and more particularly described in Exhibit "A" and Exhibit "B" are rezoned to SP-ECR/D (El Camino Real/Downtown Specific Plan).

SECTION 2. This ordinance shall become effective thirty (30) days after the date of its adoption. Within fifteen (15) days of its adoption, the ordinance shall be posted in three (3) public places within the City of Menlo Park, and the ordinance, or a summary of the ordinance prepared by the City Attorney, shall be published in a local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the fifth day of June, 2012.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the ____ day of _____, 2012, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

APPROVED:

Kirsten Keith
Mayor, City of Menlo Park

ATTEST:

Margaret S. Roberts, MMC
City Clerk

Rezoning – El Camino Real/Downtown Specific Plan
Parcels as Described by APN in City Database, April 2012 (Non-ECR SE/SW)

060333140	061430220	071092280	071103040	071284110	111920999
060333150	061430230	071092290	071103050	071285010	112170999
060333160	061430310	071092300	071103060	071285020	112510010
060341110	061430320	071092310	071103070	071285030	112510020
060341130	061430340	071092320	071103080	071285110	112510030
060341140	061430380	071094050	071103090	071285120	112510040
060341280	061430420	071094060	071103100	071285130	112510050
060341290	061430430	071094080	071103160	071285140	112510060
060343030	061430440	071094090	071103170	071285150	112510999
060343040	061430450	071094100	071103180	071285160	113010999
060343070	061430460	071094110	071103440	071286040	113540999
060343080	061430470	071094120	071103460	071286050	113730010
060343790	061430480	071094130	071103490	071286060	114040010
060343800	061441030	071094150	071103500	071286080	114040020
060344240	061441040	071094160	071273010	071287010	114040999
060344250	061441050	071094170	071273020	071287020	114090260
060344260	061441090	071094180	071273030	071287030	114090270
060344270	061441100	071094190	071273040	071287060	114090998
061402160	061441140	071101230	071273050	071287070	114090999
061412160	061441150	071101240	071273070	071287080	114320999
061412400	061441160	071101260	071273160	071287090	114360999
061412430	061441999	071101270	071273200	071288010	114380999
061412440	061442330	071102020	071273210	071288040	
061412450	061442380	071102040	071274030	071288050	
061421040	061442400	071102060	071274040	071288110	
061422070	071084090	071102070	071274140	071288120	
061422090	071084100	071102090	071281010	071288130	
061422100	071084110	071102100	071281020	071288160	
061422190	071084140	071102130	071281030	071288170	
061422200	071084150	071102140	071281040	071288180	
061422230	071084200	071102150	071281050	071288520	
061422240	071084220	071102160	071281150	071288530	
061422330	071091240	071102170	071281160	071288540	
061422350	071091250	071102180	071281170	071288600	
061422370	071091310	071102220	071282040	071288610	
061422380	071091470	071102230	071282170	071501010	
061422390	071091510	071102240	071283010	071501020	
061422400	071091520	071102250	071283020	071501030	
061422410	071092010	071102270	071283030	071501999	
061422420	071092040	071102300	071283040	111920010	
061422430	071092050	071102310	071283050	111920020	
061422440	071092080	071102320	071283130	111920030	
061422450	071092110	071102330	071283140	111920040	
061422460	071092160	071102350	071283150	111920050	
061422470	071092170	071102370	071284010	111920060	
061430070	071092180	071102380	071284020	111920070	
061430080	071092190	071102390	071284030	111920080	
061430140	071092200	071102400	071284040	111920090	
061430180	071092230	071102410	071284050	111920100	
061430200	071092250	071103020	071284080	111920110	
061430210	071092270	071103030	071284100	111920120	

**EL CAMINO REAL/DOWNTOWN SPECIFIC PLAN
CITY COUNCIL
JUNE 12, 2012**

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF MENLO PARK, REZONING PROPERTIES
LOCATED IN THE EL CAMINO REAL/DOWNTOWN SPECIFIC PLAN AREA
(APPLICABLE TO EL CAMINO REAL SOUTH-EAST DISTRICT)**

The City Council of the City of Menlo Park does ordain as follows:

SECTION 1. The zoning map of the City of Menlo Park is hereby amended such that certain real property currently zoned/described as: all C-4 (ECR) and all P-D located along the eastern side of El Camino Real between Ravenswood Avenue and the southern boundary of the City of Menlo Park, and more particularly described in Exhibit "A" and Exhibit "B" are rezoned to SP-ECR/D (El Camino Real/Downtown Specific Plan).

SECTION 2. This ordinance shall become effective thirty (30) days after the date of its adoption. Within fifteen (15) days of its adoption, the ordinance shall be posted in three (3) public places within the City of Menlo Park, and the ordinance, or a summary of the ordinance prepared by the City Attorney, shall be published in a local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the fifth day of June, 2012.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the ____ day of _____, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:




APPROVED:

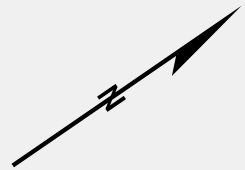
Kirsten Keith
Mayor, City of Menlo Park

ATTEST:

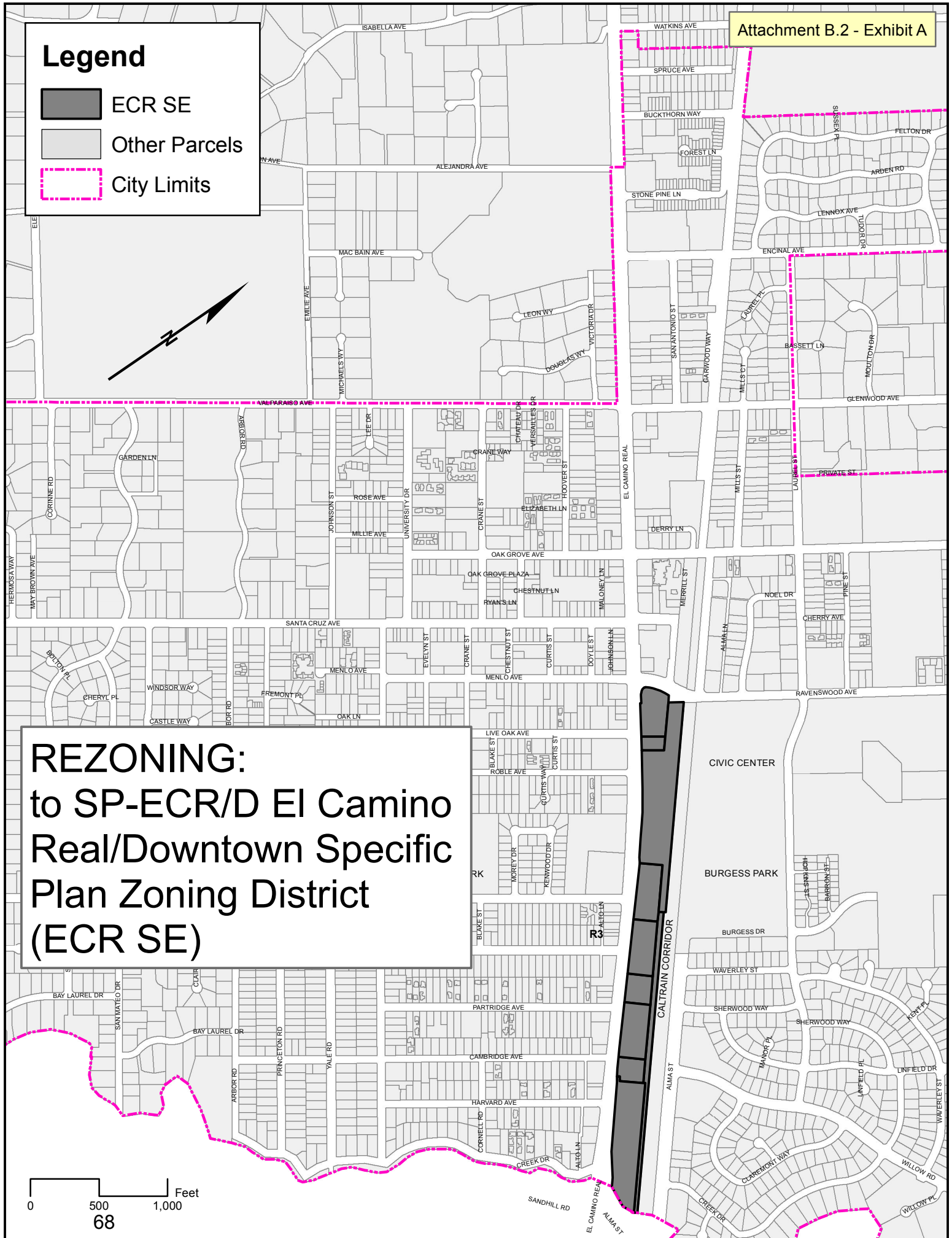
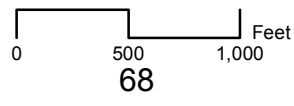
Margaret S. Roberts, MMC
City Clerk

Legend

-  ECR SE
-  Other Parcels
-  City Limits



REZONING:
 to SP-ECR/D El Camino
 Real/Downtown Specific
 Plan Zoning District
 (ECR SE)



CALTRAIN CORRIDOR

CIVIC CENTER

BURGESS PARK

BURGESS DR

WAVERTY ST

SHERWOOD WAY

SHERWOOD WAY

CLAREMONT WAY

CREEK DR

SANDHILL RD

ALMA ST

LS SHADY BARRON ST

BURGESS DR

WAVERTY ST

SHERWOOD WAY

SHERWOOD WAY

CLAREMONT WAY

CREEK DR

SANDHILL RD

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Rezoning – El Camino Real/Downtown Specific Plan
Parcels as Described by APN in City Database, April 2012 (ECR SE)

061443010
071333190
071333200
071440030
071440040
071440050
071440060
071440110
071440120
071440130

**EL CAMINO REAL/DOWNTOWN SPECIFIC PLAN
CITY COUNCIL
JUNE 12, 2012**

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF MENLO PARK, REZONING PROPERTIES
LOCATED IN THE EL CAMINO REAL/DOWNTOWN SPECIFIC PLAN AREA
(APPLICABLE TO EL CAMINO REAL SOUTH-WEST DISTRICT)**

The City Council of the City of Menlo Park does ordain as follows:

SECTION 1. The zoning map of the City of Menlo Park is hereby amended such that certain real property currently zoned/described as: all C-4 (ECR), all C-4-X (ECR), several R-3, R-3-A, and R-3-C parcels that adjoin either El-Camino-Real-fronting parcels or Alto Lane located along the western side of El Camino Real between Menlo Avenue and the southern boundary of the City of Menlo Park, and more particularly described in Exhibit "A" and Exhibit "B" are rezoned to SP-ECR/D (El Camino Real/Downtown Specific Plan).

SECTION 2. This ordinance shall become effective thirty (30) days after the date of its adoption. Within fifteen (15) days of its adoption, the ordinance shall be posted in three (3) public places within the City of Menlo Park, and the ordinance, or a summary of the ordinance prepared by the City Attorney, shall be published in a local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the fifth day of June, 2012.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the ____ day of _____, 2012, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:




APPROVED:

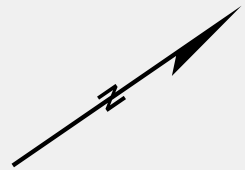
Kirsten Keith
Mayor, City of Menlo Park

ATTEST:

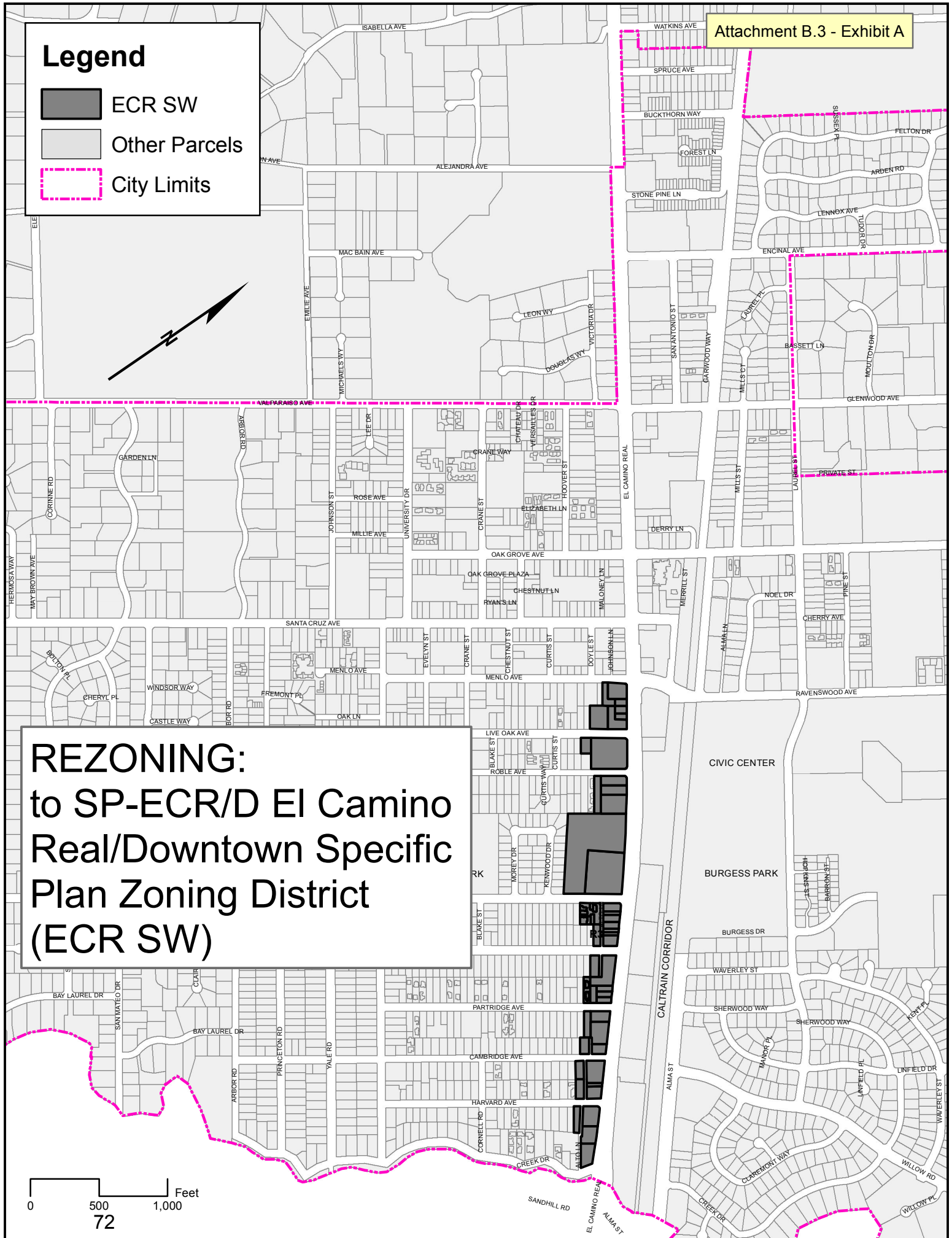
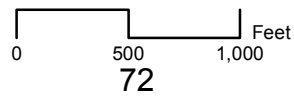
Margaret S. Roberts, MMC
City Clerk

Legend

-  ECR SW
-  Other Parcels
-  City Limits



REZONING:
 to SP-ECR/D El Camino
 Real/Downtown Specific
 Plan Zoning District
 (ECR SW)



Rezoning – El Camino Real/Downtown Specific Plan
Parcels as Described by APN in City Database, April 2012 (ECR SW)

071288190	113070010
071288210	113070020
071288230	113070999
071288550	
071288570	
071288580	
071288590	
071331040	
071331180	
071332070	
071332080	
071332090	
071332100	
071332110	
071332130	
071411170	
071411180	
071411190	
071411200	
071411210	
071411250	
071411450	
071411460	
071412170	
071412220	
071412230	
071412240	
071412250	
071412430	
071413160	
071413170	
071413200	
071413360	
071413370	
071433120	
071433140	
071433160	
071433320	
071433330	
071434120	
071434360	
071434380	
071434390	
071451010	
071451020	
071451030	
071451040	
071451050	
071451060	
071451070	
071451999	

**EL CAMINO REAL/DOWNTOWN SPECIFIC PLAN
PLAN/IMPLEMENTATION CHANGES, FROM JUNE 5, 2012 CITY COUNCIL
MEETING**

Parking Management Plan

Conceptual direction to be refined by staff:

1. Establish an advisory task force for downtown parking issues
 - a. To meet on a regular basis
 - b. Comprised of membership such as the following: City Council Member, Transportation Commission Member, Chamber of Commerce, business owner, property owner, etc.
 - c. Parking impacts of the Chestnut Paseo and Market Place are identified as key issues to evaluate
2. Starting with the next fiscal year, include the Parking Management Plan as a regular item to consider as part of the CIP process

LEED Alternate Certification

City Council endorses Planning Commission recommendation to allow for alternate verification of LEED requirements.

Public Benefit

Retain density/intensity thresholds as proposed, but review in one year.

El Camino Real Side Setbacks

City Council endorses Planning Commission recommendation, as refined by staff, to revise ground-floor El Camino Real setbacks in certain areas.

Bulb-outs

City Council endorses staff recommendation #3 to include bulb-outs as an option, including graphic revision(s).

Ongoing Review

City Council endorses Planning Commission recommendation for 2-year review (starting after 1-year review for Public Benefit).

Middle Avenue crossing as Public Benefit Bonus element

City Council endorses Planning Commission recommendation to include the Middle Avenue grade-separated crossing of the train tracks as a recommended Public Benefit Bonus element.

D (Downtown) Parking Plaza Clarification

City Council endorses staff recommendation for additional Chapter E text, as listed on page 16 of the June 5 staff report, to reiterate limits on private development on existing downtown parking plazas.

Stanford University Recommendation Regarding Multi-Parcel Development

City Council endorses concept of recommendation to specify that contiguous parcels under common ownership may be reviewed and approved comprehensively, with potential caveat about City discretion/oversight.



PUBLIC WORKS DEPARTMENT

Council Meeting Date: June 12, 2012

Staff Report #: 12-088

Agenda Item #: E-1

PUBLIC HEARING: Adopt a Resolution Overruling Protests, Ordering the Improvements, Confirming the Diagram, and Ordering the Levy and Collection of Assessments at the Existing Fee Rates for the Sidewalk and Tree Assessments for the City of Menlo Park Landscaping Assessment District for Fiscal Year 2012-13

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution (Attachment A) overruling protests, ordering the improvements, confirming the diagram, and ordering the levy and collection of assessments at the existing fee rates for the sidewalk and tree assessments for the City of Menlo Park Landscaping Assessment District for Fiscal Year 2012-13.

BACKGROUND

In 1983, the City of Menlo Park established a Landscaping Assessment District for the proper care and maintenance of City street trees. In 1990, an assessment for the repair and maintenance of sidewalks and parking strips was added to the Landscaping Assessment District. The District levies assessments on parcels in Menlo Park to generate funds to pay for the maintenance of public trees and the repair of sidewalks in the public right-of-way damaged by City street trees. Each year, the City must act to continue the collection of assessments.

On May 22, 2012, the City Council adopted Resolution No. 6062 preliminarily approving the Engineer's Report and Resolution No. 6063 stating its intention to order the levy and collection of assessments for the Landscaping Assessment District in FY 2012-13. The staff report is included as Attachment B.

ANALYSIS

The Engineer's Report for the Menlo Park Landscaping District for Fiscal Year 2012-13 proposes no increases to the sidewalk and tree portions of the assessment. The action taken by the City Council on May 22, 2012, initiated the period in which any property owners can protest the amount of their proposed assessments. No protests have been received as of the date of this staff report. Prior to taking any final action, the Council must conduct the Public Hearing and give direction regarding any protests received. If

the Council confirms and approves the assessments by adopting the Resolution. The levies will be submitted to the County Auditor/Controller for inclusion on the property tax roll for FY 2012-13.

IMPACT ON CITY RESOURCES

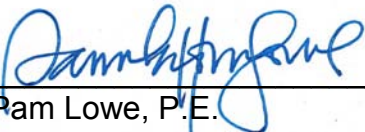
If the Council does not adopt the attached resolution, the impact on City resources will be \$770,767 which represents the total amount of the estimated tree and sidewalk assessments to be received in the FY 2012-13.

POLICY ISSUES

The recommendation is consistent with the Council's and the Environmental Quality Commission's emphasis on the importance of preserving and maintaining mature trees.

ENVIRONMENTAL REVIEW

An environmental review is not required.



Pam Lowe, P.E.
Associate Civil Engineer



Ruben Niño
Assistant Public Works Director

PUBLIC NOTICE: Public Notification consists of posting the agenda, with this item being listed, at least 72 hours prior to the meeting, and publishing legal notices on May 24, 2012 and May 31, 2012 in *The Daily News*.

ATTACHMENTS:

- A. Resolution
- B. Staff Report # 12-077, dated May 22, 2012

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
OVERRULING PROTESTS, ORDERING THE IMPROVEMENTS, CONFIRMING
THE DIAGRAM, AND ORDERING THE CONTINUATION AND COLLECTION
OF ASSESSMENTS AT THE EXISTING FEE RATES FOR THE SIDEWALK
AND TREE ASSESSMENTS FOR THE CITY OF MENLO PARK
LANDSCAPING ASSESSMENT DISTRICT FOR FY 2012-13**

WHEREAS, on the 24th day of January, 2012, said Council adopted Resolution No. 6045, describing improvements and directing preparation of the Engineer's Report for the City of Menlo Park Landscaping District for Fiscal Year 2012-13, pursuant to provisions of Article XIII D of the California Constitution and the Landscaping and Lighting Act of 1972; and

WHEREAS, said Council thereupon duly considered said report and each and every part thereof and found that it contained all the matters and things called for by the provisions of said Act and said Resolution No. 6045, including (1) plans and specifications of the existing improvements and the proposed new improvements; (2) estimate of costs; (3) diagram of the District; and (4) an assessment according to benefits; all of which were done in the form and manner required by said Act; and

WHEREAS, said Council found that said report and each and every part thereof was sufficient in every particular and determined that it should stand as the report for all subsequent proceedings under said Act, whereupon said Council pursuant to the requirements of said Act, appointed Tuesday, the 12th day of June, 2012, at the hour of 7:00 p.m. or soon thereafter of said day in the regular meeting place of said Council, Council Chambers, Civic Center, 701 Laurel Street, Menlo Park, California 94025, as the time and place for hearing protests in relation to the continuation and collection of the proposed assessments for said improvements, including the maintenance or servicing, or both, thereof, for FY 2012-13; and

WHEREAS, on June 12, 2012, at the hour of 7:00 p.m. or soon thereafter at 701 Laurel Street, Menlo Park, California, the Public Hearing was duly and regularly held as noticed, and all persons interested and desiring to be heard were given an opportunity to speak and be heard, and all matters and things pertaining to the levy were fully heard and considered by this Council, and all oral statements and all written protests or communications were duly considered; and

WHEREAS, persons interested, objecting to said improvements, including the maintenance or servicing, or both, thereof, or to the extent of the assessment district, or any zones therein, or to the proposed assessment or diagram or to the Engineer's estimate of costs thereof, filed written protests with the City Clerk of said City at or before the conclusion of said hearing, and all persons interested desiring to be heard were given an opportunity to be heard, and all matters and things pertaining to the continuation and collection of the assessments for said improvements, including the maintenance or servicing, or both, thereof, were fully heard and considered by said Council.

NOW, THEREFORE, BE IT RESOLVED, AND IS HEREBY FOUND, DETERMINED, AND ORDERED AS FOLLOWS:

1. That protests against said improvements, including the maintenance or servicing, both, thereof, or to the extent of the assessment district or any zones therein, or to the proposed

continued assessment or diagram, or to the Engineer's estimate of costs thereof, for FY 2012-13 be, and each of them are hereby overruled.

2. That the public interest, convenience, and necessity require and said Council does hereby order the continuation and collection of assessments pursuant to said Act, for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, more particularly described in said Engineer's Report and made a part hereof by reference thereto.
3. That the City of Menlo Park Landscaping District and the boundaries thereof benefited and to be assessed for said costs for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, are situated in Menlo Park, California, and are more particularly described by reference to a map thereof on file in the office of the City Clerk of said City. Said map indicates by a boundary line the extent of the territory included in said District and of any zone thereof and the general location of said District.
4. That the plans and specifications for the existing improvements and for the proposed improvements to be made within the assessment district or within any zone thereof contained in said report, be, and they are hereby, finally adopted and approved.
5. That the Engineer's estimate of the itemized and total costs and expenses of said improvements, maintenance and servicing thereof, and of the incidental expenses in connection therewith, contained in said report, be, and it is hereby, finally adopted and approved.
6. That the public interest and convenience require, and said Council does hereby order the improvements to be made as described in, and in accordance with, said Engineer's Report, reference to which is hereby made for a more particular description of said improvements.
7. That the diagram showing the exterior boundaries of the assessment district referred to and described in Resolution No. 6045 and also the boundaries of any zones therein and the lines and dimensions of each lot or parcel of land within said District as such lot or parcel of land is shown on the County Assessor's maps for the fiscal year to which it applies, each of which lot or parcel of land has been given a separate number upon said diagram, as contained in said report, be, and it is hereby, finally approved and confirmed.
8. That the continued assessment of the total amount of the costs and expenses of the said improvements upon the several lots or parcels of land in said District in proportion to the estimated benefits to be received by such lots or parcels, respectively, from said improvements, and the maintenance or servicing, or both, thereof and of the expenses incidental thereto contained in said report be, and the same is hereby, finally approved and confirmed.
9. Based on the oral and documentary evidence, including the Engineer's Report, offered and received at the hearing, this Council expressly finds and determines (a) that each of the several lots and parcels of land will be specially benefited by the maintenance of the improvements at least in the amount if not more than the amount, of the continued assessment apportioned against the lots and parcels of land, respectively, and (b) that there is substantial evidence to support, and the weight of the evidence preponderates in favor of, the aforesaid finding and determination as to special benefits.

10. That said Engineer's Report for FY 2012-13 be, and the same is hereby, finally adopted and approved as a whole.
11. That the City Clerk shall forthwith file with the Auditor of San Mateo County the said continued assessment, together with said diagram thereto attached and made a part thereof, as confirmed by the City Council, with the certificate of such confirmation thereto attached and of the date thereof.
12. That the order for the levy and collection of assessment for the improvements and the final adoption and approval of the Engineer's Report as a whole, and of the plans and specifications, estimate of the costs and expenses, the diagram and the continued assessment as contained in said Report, as hereinabove determined and ordered, is intended to and shall refer and apply to said Report, or any portion thereof, as amended, modified, revised, or corrected by, or pursuant to and in accordance with any resolution or order, if any, heretofore duly adopted or made by this Council.
13. That the San Mateo County Controller and the San Mateo County Tax Collector apply the City of Menlo Park Landscaping District assessments to the tax roll and have the San Mateo County Tax Collector collect said continued assessments in the manner and form as with all other such assessments collected by the San Mateo County Tax Collector.

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 regular meeting by the City Council of the City of Menlo Park on the twelfth day of June, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS THEREOF, I have hereunto set my hand and affixed the Official Seal of said City, this twelfth day of June, 2012.

Margaret S. Roberts, MMC
City Clerk



PUBLIC WORKS DEPARTMENT

Council Meeting Date: May 22, 2012

Staff Report #: 12-077

Agenda Item #: D-6

CONSENT CALENDAR: Adopt a Resolution Giving Preliminary Approval of the Engineer's Report for the Menlo Park Landscaping District for Fiscal Year 2012-13 which Proposes No Increases to the Tree or Sidewalk Portions of the Assessment; Adopt a Resolution of Intent to Order the Levy and Collection of Assessments at the Current Rates for the Menlo Park Landscaping District for Fiscal Year 2012-13; and Set the Date for the Public Hearing for June 12, 2012

RECOMMENDATION

Staff recommends that the City Council:

1. Adopt a Resolution giving preliminary approval of the Engineer's Report for the City of Menlo Park Landscaping District for Fiscal Year 2012-13, which proposes no increases to the tree or sidewalk portions of the assessment (Attachment A);
2. Adopt a Resolution of Intention to order the levy and collection of assessments at the current rates for the City of Menlo Park Landscaping District for Fiscal Year 2012-13 pursuant to the Landscaping and Lighting Act of 1972 (Attachment B); and
3. Set the date for the Public Hearing for June 12, 2012.

BACKGROUND

The Landscaping Assessment District provides funding for the maintenance of trees and sidewalks throughout Menlo Park.

Tree Maintenance

Between 1960 and 1982, the City had one three-person tree crew to care for City parks, medians, and street trees. At that time, the tree crew trimmed trees as requested by residents. There was no specific, long-term plan to address tree maintenance. As the trees grew, it took considerably more time per tree to provide proper care and the City's one tree crew was unable to maintain all the trees in proper condition.

The voters approved Measure N in 1982 as an advisory measure to the City Council regarding formation of the City of Menlo Park Landscaping District. The District was formed in 1983 to provide proper street-tree maintenance. Programmatic changes have occurred over the past 29 years to address new regulations and maintain the existing tree canopy. Proper care of the tree canopy continues to be identified as a priority by property owners, the Environmental Quality Commission and the Council.

In 1998, the City identified concerns that a significant number of City trees, of which over 80 percent were considered to be mature, would decline and fail at roughly the same time unless proactive measures were taken to stagger removal of the older trees with establishment of new, younger trees. In addition, the tree maintenance trimming and evaluation schedule had slipped from once every five years to once every seven years due to cost. The City proposed an increase in the District fees, which was approved per Proposition 218 requirements. The additional funds raised were used to bring back the tree trimming/evaluation schedule to once every five years. In addition, in 2008-09 a reforestation program was implemented with a portion of the District funds.

City Tree-Damaged Sidewalk Repair

Prior to 1990, property owners and the City split the cost of repairing sidewalks damaged by City trees. The City entered into individual agreements with approximately 200 individual property owners each year to conduct these repairs. The annual cost was a financial burden to some residents on fixed incomes, and burdensome for the City to administer.

An assessment for the repair of sidewalks and parking strips was established in 1990 to make the program more cost-effective and less of a financial burden for property owners, and to streamline staff's processing of tree-damaged sidewalk repair. Staff has been able to address the tripping hazards through new technologies in sidewalk sawcutting, resulting in the sidewalk assessment only having been raised once since its establishment.

Street Sweeping

Street sweeping is performed throughout the City for aesthetic, water quality and health reasons, as well as compliance with storm water regulations. Street sweeping work has been performed by contract services since 1992. At that time, the cost of street sweeping was divided between the landscape assessment district and the General Fund. In recent years, the cost for street sweeping has been split, with 2/3 of the cost funded by the District, and 1/3 of the cost coming from the stormwater program. The projected FY 2012-13 cost for street sweeping is approximately \$165,000 per year, and is funded 2/3 (\$110,000) from the District and 1/3 (\$55,000) from the Measure M vehicle registration fees, which was voter-approved in November 2010.

Engineer's Report Requirements

For each fiscal year the assessments will be levied, the City Council must direct the preparation of an Engineer's Report, budgets, and proposed assessments. On January 24, 2012, the City Council adopted Resolution 6045 describing the improvements and directing the preparation of an Engineer's Report for the Landscaping District for FY 2012-13. In addition, Council approved an agreement with SCI Consulting Group to prepare that report.

The Engineer's Report establishes the foundation and justification for the continued collection of the landscape assessments for FY 2012-13. SCI Consulting Group has reviewed the report in context with recent court decisions and legal requirements for benefit assessments. The assessments proposed are fully compliant with recent court decisions and the requirements of Proposition 218.

The purpose of this staff report is to obtain Council's preliminary approval of the Engineer's Report, state the intention of the Council to order the levy and collection of assessments, give preliminary approval of no increase to the tree and sidewalk portions of the assessment, and set a public hearing for June 12, 2012, regarding the proposed assessments.

ANALYSIS

Approval of Engineer's Report

SCI Consulting Group has completed the preliminary Engineer's Report (Attachment C) for the Landscaping District, which includes the District's proposed FY 2012-13 budget. The budget covers tree maintenance, a portion of the cost of the City's street sweeping program, and the sidewalk repair program. The report describes in detail the method used for apportioning the total assessment among properties within the District. This method involves identifying the benefit received by each property in relation to a single-family home (Single Family Equivalent or SFE).

Expenses for the program are covered by revenue from property tax assessments, contributions from the City (primarily from the General Fund), and unspent funds from prior years.

Program Budgets

Tree Maintenance Assessments

Staff is proposing no increase to the tree maintenance budget for the fiscal year 2012-13. Table I shows the proposed budget for street tree maintenance expenses and revenues for FY 2012-13.

Table I Tree Maintenance Assessments Proposed FY 2012-13 Budget	
Projected Beginning Fund Balance	\$98,224
Estimated Revenues:	
Tree Assessment Revenue (no increase)	\$566,055
General Fund Contribution towards Tree Maintenance	159,600
C/CAG County Contribution for Street Sweeping	13,000
	\$738,655
Estimated Expenses:	
Street Tree Maintenance	\$541,513
Debris Removal (Street Sweeping)	167,209
Administration & County Collection of Assessment Fees	39,130
	\$747,852
Projected Ending Fund Balance	\$89,028

Staff estimates that tree maintenance expenditures will exceed revenues by approximately \$9,196 in FY 2012-13, which will result in a FY 2012-13 ending fund balance of approximately \$89,028. In 2009, the Council approved staff's recommendation to set assessments in amounts that would result in fund balances of not less than 10% of projected expenditures. The projected ending fund balance of approximately \$89,028 is 12 percent of projected expenses, and is therefore in accordance with the 2009 policy. Therefore, staff is not recommending any increase to the tree maintenance assessment for FY 2012-13.

The General Fund contribution towards tree maintenance will be \$159,600 for FY 2012-13, the same amount as for FY 2011-12. Proposition 218 stipulates that only the "special benefits" received by a parcel can be charged through an assessment district, with "general benefits" being funded by other sources. The Engineer's Report determined that 75 percent of the benefits received are special benefits, and 25 percent are general benefits. Funds received from the City/County Association of Governments for street sweeping will be used to pay for a portion of the general benefit. The proposed General Fund contribution of \$159,600 will meet the City's remaining obligation.

Sidewalk Repair Assessments

Staff is proposing no increase to the sidewalk repair budget for fiscal year 2012-13. Table II shows the proposed budget for sidewalk, curb, gutter and parking strip repair and replacement expenses and revenues for FY 2012-13.

Table II Sidewalk Repair Assessments Proposed FY 2012-13 Budget	
Projected Beginning Fund Balance	\$282,159
Estimated Revenues:	
Sidewalk Assessment Revenue (no rate increase)	\$204,712
General Fund CIP Contribution for sidewalk repair	<u>120,000</u>
	\$324,712
Estimated Expenses:	
Sidewalk, Curb, Gutter, Parking Strip Repair/Replacement	\$300,000
Administration & County Collection of Assessment Fees	<u>39,130</u>
	\$339,130
Projected Ending Fund Balance	\$267,741

The Council authorizes sidewalk repair program funding in the amount of \$300,000 per year as part of the City's capital improvement program. At that funding level, staff estimates that the sidewalk repair program will have budgeted expenses that exceed revenues by approximately \$14,418 in FY 2012-13. The projected FY 2012-13 ending fund balance is approximately \$267,741. Therefore, staff is not recommending any increase to the sidewalk repair assessments for FY 2012-13.

Table III Annual Tree Assessment Rates Proposed FY 2012-13 (no increase from FY 2011-12)		
Property Type	Properties with Trees	Properties without Trees
Single-family	\$60.26 per Parcel	\$30.13 per Parcel
R-2 Zone, in use as single-family	\$60.26 per Parcel	\$30.13 per Parcel
Condominium/ Townhouse	\$54.23 per Unit \$271.17 max. per Project	\$27.12 per Unit \$135.59 max. per Project
Other Multi-family	\$48.21 per Unit \$241.04 max. per Project	\$24.10 per Unit \$120.52 max. per Project
Commercial	\$60.26 per 1/5 acre \$301.30 max. per Project	\$30.13 per 1/5 acre \$150.65 max. per Project
Industrial	\$60.26 per 1/5 acre \$301.30 max. per Project	\$30.13 per 1/5 acre \$150.65 max. per Project
Parks, Educational	\$60.26 per Parcel	\$30.13 per Parcel
Miscellaneous, Other	\$0.00 per Parcel	\$0.00 per Parcel

Table IV	
Property Type	Annual Sidewalk Assessment Rates Proposed FY 2012-13 (no increase from FY 2011-12)
Properties with Improvements	
Sidewalks, curbs, gutters	\$28.70 per Parcel
Parking strips and gutters	\$28.70 per Parcel
Curbs and/or gutters only	\$19.23 per Parcel
No improvements	\$9.47 per Parcel
Miscellaneous, Other	\$0.00 per Parcel
Properties without Improvements	
Parcels with or without improvements	\$9.47 per Parcel
Miscellaneous, Other	\$0.00 per Parcel

* All assessment amounts are rounded to the penny.

Assessment Process

If the Council approves the attached resolutions, staff will publish legal notice of the assessment Public Hearing at least ten days prior to the hearing, which is tentatively scheduled for June 12, 2012. Once the assessments are confirmed and approved, the levies will be submitted to the County Auditor/Controller for inclusion onto the property tax roll for FY 2012-13.

Assessments are subject to an annual adjustment based on the Engineering News Record Construction Cost Index (CCI) for the San Francisco Bay Area. The maximum annual adjustment cannot exceed 3%. Any change in the CCI in excess of 3% is cumulatively reserved and can be used to increase the assessment rate in years in which the CCI is less than 3%. The change in the CCI from December 2010 to December 2011 was 0.83%.

The maximum authorized assessment rate for fiscal year 2012-13 (based on accumulated unused CCI increases) would be \$92.81 per single family equivalent (SFE) benefit unit for tree maintenance and \$41.44 per single family equivalent (SFE) benefit unit for sidewalk maintenance. The estimated budget in the Engineer's Report proposes assessments for fiscal year 2012-13 at the rate of \$60.26 per SFE for tree maintenance and \$28.70 per SFE for sidewalk maintenance (same as FY 2011-12). Both amounts are less than the maximum authorized assessment rate.

IMPACT ON CITY RESOURCES

Funding for the entire tree-maintenance and sidewalk-repair programs under the assessment district comes from a variety of sources, including the carryover of unspent funds from prior years, annual tax assessment revenues, and contributions from the General Fund. If the Council does not order the levy and collection of assessments, the

impact on City resources would be \$770,767 (the total amount of the proposed tree and sidewalk assessments).

The current estimated fund balances for both the tree and sidewalk programs are sufficient to maintain current services levels through FY 2012-13. The staff recommendation not to increase either the tree maintenance or sidewalk repair assessment rate is expected to result in maintaining fund balances for each program in excess of 10 percent of projected expenditures.

POLICY ISSUES

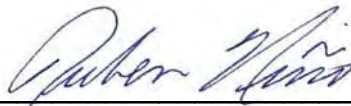
The recommendation is consistent with the Council's and the Environmental Quality Commission's emphasis on the importance of preserving and maintaining mature trees.

ENVIRONMENTAL REVIEW

An environmental review is not required.



Pam Lowe, P.E.
Associate Civil Engineer



Ruben Niño, P.E.
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.

ATTACHMENTS:

- A. Resolution of Preliminary Approval of the Engineer's Report
- B. Resolution of Intention to Order the Levy and Collection of Assessments
- C. Engineer's Report dated May 2012

RESOLUTION NO.**RESOLUTION OF PRELIMINARY APPROVAL OF THE ENGINEER'S
REPORT FOR THE CITY OF MENLO PARK LANDSCAPING DISTRICT
FOR FISCAL YEAR 2012-13**

WHEREAS, on the 24th day of January, 2012, said Council did adopt Resolution No. 6045, describing improvements and directing preparation of the Engineer's Report for the City of Menlo Park Landscaping District (District) for Fiscal Year 2012-13, pursuant to provisions of Article XIID of the California Constitution and the Landscaping and Lighting Act of 1972, in said City and did refer the proposed improvements to SCI Consulting Group and did therein direct SCI Consulting Group to prepare and file with the Clerk of said City a report, in writing, all as therein more particularly described, under and in accordance with Section 22565, *et. seq.*, of the Streets and Highways Code and Article XIID of the California Constitution; and

WHEREAS, said SCI Consulting Group prepared and filed with the Clerk of said City a report in writing as called for in said Resolution No. 6045 and under and pursuant to said Article and Act, which report has been presented to this Council for consideration; and

WHEREAS, said Council has duly considered said report and each and every part thereof, and finds that each and every part of said report is sufficient, and that neither said report, nor any part thereof, should be modified in any respect.

NOW, THEREFORE, BE IT RESOLVED THAT IT IS HEREBY FOUND, DETERMINED, and ORDERED, as follows:

1. That the plans and specifications for the existing improvements and the proposed new improvements to be made within the District or within any zone thereof, contained in said report, be, and they are hereby, preliminarily approved.
2. That the Engineer's estimate of the itemized and total costs and expenses of said improvements, maintenance, and servicing thereof, and of the incidental expenses in connection therewith, contained in said report be, and each of them is hereby, preliminarily approved.
3. That the diagram showing the exterior boundaries of the District referred to and described in said Resolution No. 6045 and also the boundaries of any zones therein and the lines and dimensions of each lot or parcel of land within said District as such lot or parcel of land is shown on the County Assessor's maps for the fiscal year to which the report applies, each of which lot or parcel of land has been given a separate number upon said diagram, as contained in said report be, and it is hereby, preliminarily approved.

4. That the proposed continued assessment of the total amount of the estimated costs and expenses of the proposed improvements upon the several lots or parcels of land in said District in proportion to the estimated benefits to be received by such lots or parcels, respectively, from said improvements including the maintenance or servicing, or both, thereof, and of the expenses incidental thereto, as contained in said report be, and they are hereby, preliminarily approved.
5. That said report shall stand as the Engineer's Report for the purpose of all subsequent proceedings to be had pursuant to said Resolution No. 6045.

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-second day of May, 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-second day of May, 2012.

Margaret S. Roberts, MMC
City Clerk

RESOLUTION NO.**RESOLUTION OF INTENTION TO ORDER THE CONTINUATION AND COLLECTION OF ASSESSMENTS FOR THE CITY OF MENLO PARK LANDSCAPING DISTRICT FOR FISCAL YEAR 2012-13 PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972**

WHEREAS, pursuant to Resolution No. 6045 describing improvements and directing the preparation of the Engineer's Report for Fiscal Year 2012-13 for the City of Menlo Park Landscaping District, adopted on January 24, 2012, by the City Council of said City; and

WHEREAS pursuant to provisions of Article XIID of the California Constitution and the Landscaping and Lighting Act of 1972, SCI Consulting Group for said City has prepared and filed with the Clerk of this City the written report called for under and in accordance with Section 22565, *et. seq.*, of the Streets and Highways Code and Article XIID of the California Constitution; and

WHEREAS, by said Resolution No. 6045, which said report has been submitted and preliminarily approved by this Council in accordance with said Article and Act.

NOW, THEREFORE, BE IT RESOLVED, THAT IT IS HEREBY FOUND, DETERMINED, and ORDERED, as follows:

1. In its opinion, the public interest and convenience require, and it is the intention of this Council, to order the continuation and collection of assessments for Fiscal Year 2012-13 pursuant to the provisions of Article XIID of the California Constitution and the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the Streets and Highways Code of the State of California, for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, more particularly described in Exhibit A hereto attached and by reference incorporated herein.
2. The cost and expense of said improvements, including the maintenance or servicing, or both, thereof, are to be made chargeable upon the assessment district designated as "City of Menlo Park Landscaping District" (District) the exterior boundaries of which District are the composite and consolidated area as more particularly described on a map thereof on file in the office of the Clerk of said City, to which reference is hereby made for further particulars. Said map indicates by a boundary line the extent of the territory included in the District and of any zone thereof and the general location of said District.
3. Said Engineer's Report prepared by SCI Consulting Group, preliminarily approved by this Council, and on file with the Clerk of this City, is hereby referred to for a full and detailed description of the improvements, the boundaries of the

assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the District.

4. The authorized maximum assessment rates for the District include an annual adjustment by an amount equal to the annual change in the Engineering News Record Index, not to exceed 3 percent per year, plus any uncaptured excesses. Assessment rates are not proposed to increase during Fiscal Year 2012-13 over the Fiscal Year 2011-12 assessments. The maximum authorized assessment rate for street tree maintenance for Fiscal Year 2012-13 is \$92.81 per single family equivalent benefit unit, and the proposed assessment rate per single family equivalent benefit unit to be continued to Fiscal Year 2012-13 is \$60.26, which is the same rate as that levied in Fiscal Year 2012-13 and is less than the maximum authorized rate. Including the authorized annual adjustment, the maximum authorized assessment rate for sidewalk repairs for Fiscal Year 2012-13 is \$41.44 per single family equivalent benefit unit, and the proposed assessment rate per single family equivalent benefit unit to be continued to Fiscal Year 2012-13 is \$28.70, which is the same rate as that levied in Fiscal Year 2012-13 and is less than the maximum authorized rate.
5. Notice is hereby given that Tuesday, the twelfth day of June, 2012, at the hour of 7:00 o'clock p.m., or as soon thereafter, in the regular meeting place of said Council, Council Chambers, Civic Center, 701 Laurel Street, Menlo Park, California, be, and the same are hereby appointed and fixed as the time and place for a Public Hearing by this Council on the question of the continuation and collection of the proposed assessment for the construction or installation of said improvements, including the maintenance and servicing, or both, thereof, and when and where it will consider all oral statements and all written protests made or filed by any interested person at or before the conclusion of said hearing, against said improvements, the boundaries of the assessment district and any zone therein, the proposed diagram or the proposed assessment, to the Engineer's estimate of the cost thereof, and when and where it will consider and finally act upon the Engineer's Report.
6. The Clerk of said City is hereby directed to give notice of said Public Hearing by causing a copy of this resolution to be published once in *The Daily News*, a newspaper circulated in said City, and by conspicuously posting a copy thereof upon the official bulletin board customarily used by the City for the posting of notices, said posting and publication to be had and completed at least ten (10) days prior to the date of public hearing specified herein.
7. The Office of the Engineering Services Manager of said City is hereby designated as the office to answer inquiries regarding any protest proceedings to be had herein, and may be contacted during regular office hours at the Civic Center, 701 Laurel Street, Menlo Park, California, 94025, or by calling (650) 330-6740.

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-second day of May, 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-second day of May, 2012.

Margaret S. Roberts, MMC
City Clerk

Exhibit A

City of Menlo Park Landscaping District

Maintaining and servicing of street trees, including the cost of repair, removal or replacement of all or any part thereof, providing for the life, growth, health, and beauty of landscaping, including cultivation, trimming, spraying, fertilizing, or treating for disease or injury, the removal of trimmings, rubbish, debris, and other solid waste, and water for the irrigation thereof, and the installation or construction, including the maintenance and servicing thereof, of curbs, gutters, sidewalks, and parking strips.

CITY OF MENLO PARK



LANDSCAPING ASSESSMENT DISTRICT

ENGINEER'S REPORT

FISCAL YEAR 2012-13

MAY, 2012

PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972 AND
ARTICLE XIII D OF THE CALIFORNIA CONSTITUTION

ENGINEER OF WORK:

SCI Consulting Group

4745 MANGELS BLVD.

FAIRFIELD, CALIFORNIA 94534

PHONE 707.430.4300

FAX 707.430.4319

www.sci-cg.com

CITY OF MENLO PARK

MENLO PARK CITY COUNCIL

Mayor Kirsten Keith
Mayor Pro Tem Peter I. Ohtaki
Council Member Richard Cline
Council Member Andrew M. Cohen
Council Member Kelly Fergusson

CITY MANAGER

Alex D. McIntyre

ENGINEERING SERVICES MANAGER

Matt Oscamou

CITY CLERK

Margaret S. Roberts

CITY ATTORNEY

Bill McClure

ENGINEER OF WORK

SCI Consulting Group
Lead Assessment Engineer, John Bliss, M.Eng., P.E.

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INTRODUCTION

Assessment Background

Between 1960 and 1982, the City of Menlo Park had one three-person crew to care for approximately 9,000 City trees. As the trees grew, it took considerably more time per tree to provide proper care. Consequently one tree crew was unable to perform the necessary work to maintain all of the street trees in proper condition. The Landscape Assessment District was originally formed in 1983 for the purpose of levying annual special assessments in order to properly maintain street trees in the City of Menlo Park. Currently, there are approximately 11,000 street trees that are maintained by the assessments.

Prior to 1990, property owners and the City would split the cost of repairing sidewalks damaged by City trees. The City would annually enter into an agreement with approximately 200 individual property owners. The one-time cost was a financial burden to some residents on fixed incomes. In order to make the program more cost-effective and less of a financial burden for property owners, an assessment for repair of sidewalks/parking strips due to City street-tree related damages was established in 1990.

The increased cost of the necessary work made the assessment amounts levied in Fiscal Year 1997-98 insufficient for adequately maintaining the City's street trees, curbs, gutters and sidewalks. An increase in the assessments was required to provide funding for continued tree maintenance and sidewalk repairs. However, with the passage of Proposition 218 on November 6, 1996, assessments can only be raised after the City conducts an assessment ballot proceeding and the ballots submitted in opposition to the assessments do not exceed the ballots in favor of the assessments. (Each ballot is weighted by the amount of assessment for the property it represents.)

Assessment Process

In 1998, the City conducted an assessment ballot proceeding for increased tree maintenance and sidewalk repair assessments pursuant to the requirements of Article XIID of the California Constitution (Proposition 218) and the Landscaping and Lighting Act of 1972. The proposed tree maintenance assessments for fiscal year 1998-99 were \$64.28 per single family equivalent unit and the proposed sidewalk repair assessments were \$28.70 per single family equivalent. The proposed maximum assessments also included an annual assessment cost escalator tied to the annual change in the Engineering News Record Construction Cost Index for the San Francisco Bay Area ("ENR Index"). These proposed assessments were supported by 73% of assessment ballots received from property owners (with each ballot

weighted by the amount of assessments it represented). Therefore, on June 16, 1998 by its Resolution Number 4840-D, the City Council levied the new assessments.

Engineer's Report and Continuation of Assessments

In each subsequent year for which the assessments will be continued, the City Council must direct the preparation of an Engineer's Report, budgets and proposed assessments for the upcoming fiscal year. After the Engineer's Report is completed, the City Council may preliminarily approve the Engineer's Report and proposed assessments and establish the date for a public hearing on the continuation of the assessments. This Report was prepared pursuant to the direction of the Council.

The maximum authorized assessment rate, as increased each year by the change in the ENR Index, is the maximum assessment rate that can be levied in the given fiscal year without approval from property owners in another assessment ballot proceeding. In fiscal year 1998-99, the assessments were levied at the maximum rate for that fiscal year. Since this first fiscal year after the ballot proceeding, the assessments have been levied below the maximum authorized rate.

From December 2010 to December 2011, the ENR Index increased 0.83 percent. The maximum amount assessments can be increased annually is the ENR Index plus any uncaptured excess reserved from prior years, to a maximum increase of up to 3%.

Based on accumulated excess reserves from prior years, the maximum authorized rates for fiscal year 2012-13 are \$92.81 for trees and \$41.44 for sidewalks without another ballot proceeding. (No additional ballot proceeding is required because the maximum authorized assessment rates, including the annual adjustments in these rates, were approved in the 1998 ballot proceeding. The actual rate levied in any given fiscal year can be revised up, with an annual maximum increase of 3%, or down, by any amount that does not cause the actual rates levied to exceed the maximum authorized assessment rates.)

The City reduced the assessment rate for tree maintenance in fiscal year 2000-01 and increased the assessment rate in fiscal years 2002-03, and 2005-06 through 2009-10. In other fiscal years it was not necessary to increase the rate, due to sufficient reserve funds carried forward from prior fiscal years, combined with general benefit contributions. For fiscal year 2012-13 the proposed assessments for tree maintenance are not proposed to increase from fiscal year 2011-12, and the assessments for sidewalk maintenance are still not proposed to increase. The proposed rates therefore are \$60.26 per Single Family Equivalent (SFE) for tree maintenance and \$28.70 per SFE for sidewalk repairs.

If the Council approves this Engineer's Report and the continuation of the assessments by resolution, a notice of assessment levies must be published in a local newspaper at least 10 days prior to the date of the public hearing. The resolution preliminarily approving the Engineer's Report and establishing the date for a public hearing is used for this notice.

Following the minimum 10 day time period after publishing the notice, a public hearing is held for the purpose of allowing public testimony about the proposed continuation of the assessments. This hearing is currently scheduled for June 5, 2012. At this hearing, the Council will consider approval of a resolution confirming the continuation of the assessments for fiscal year 2012-13. If so confirmed and approved, the assessments will be submitted to the County Auditor/Controller for inclusion on the property tax roll for Fiscal Year 2012-13.

Proposition 218

This assessment is consistent with Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996, and is now Article XIII C and XIII D of the California Constitution. Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property.

Proposition 218 describes a number of important requirements, including a property-owner balloting, for the formation and continuation of assessments, and these requirements are satisfied by the process used to establish this assessment.

The original assessment existed prior to the passage of Proposition 218. Although the original assessment is also consistent with Proposition 218, the California judiciary has generally referred to pre-Proposition 218 assessments as "grandfathered assessments" and held them to a lower standard than post Proposition 218 assessments.

SILICON VALLEY TAXPAYERS ASSOCIATION, INC. v SANTA CLARA COUNTY OPEN SPACE AUTHORITY

In July of 2008, the California Supreme Court issued its ruling on the Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority ("SVTA vs. SCCOSA"). This ruling is the most significant court case in further legally clarifying the substantive assessment requirements of Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special, not general, benefit
- The services and/or improvements funded by assessments must be clearly defined
- Special benefits are directly received by and provide a direct advantage to property in the assessment district

DAHMS V. DOWNTOWN POMONA PROPERTY

On June 8, 2009, the 4th Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. On this date, Dahms became good law and binding precedent for assessments. In Dahms the Court upheld an assessment that was 100% special benefit (i.e. 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.

BONANDER V. TOWN OF TIBURON

On December 31, 2009, the 1st District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

BEUTZ V. COUNTY OF RIVERSIDE

On May 26, 2010 the 4th District Court of Appeal issued a decision on the Steven Beutz v. County of Riverside ("Beutz") appeal. This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services were not explicitly calculated, quantified and separated from the special benefits.

COMPLIANCE WITH CURRENT LAW

This Engineer's Report is consistent with the requirements of Article XIIC and XIID of the California Constitution and with the SVTA decision because the Improvements to be funded are clearly defined; the Improvements are directly available to and will directly benefit property in the Assessment District; and the Improvements provide a direct advantage to property in the Assessment District that would not be received in absence of the Assessments.

This Engineer's Report is consistent with *Beutz* and *Dahms* because the Improvements will directly benefit property in the Assessment District and the general benefits have been explicitly calculated and quantified and excluded from the Assessments. The Engineer's Report is consistent with *Bonander* because the Assessments have been apportioned based on the overall cost of the Improvements and proportional special benefit to each property.

PLANS & SPECIFICATIONS

Following is a description of the Services that are provided for the benefit of property in the Assessment District. Prior to the residential development in Menlo Park, the Level of Service on these improvements was effectively zero. The formula below describes the relationship between the final level of improvements, the baseline level of service (pre-development) had the assessment not been instituted, and the enhanced level of improvements funded by the assessment.

$$\begin{aligned} \text{Final Level of Service} &= \text{Baseline Level of Service } (\approx \text{zero, pre-development}) \\ &+ \\ &\text{Enhanced Level of Service} \end{aligned}$$

The City of Menlo Park maintains street trees, sidewalks, curbs, gutters, and parking strips throughout the City.

The proposed improvements to be undertaken by the City of Menlo Park and financed by the levy of the annual assessment provide special benefit to Assessor Parcels within the District as defined in the Method of Assessment herein. The said improvements consist of maintaining, trimming, disease treatment, and replacement of street trees; street sweeping to remove debris; and the repair and replacement of damaged sidewalks, curbs, gutters, and parking strips damaged by street trees throughout the City of Menlo Park.

METHOD OF ASSESSMENT

This section of the Engineer's Report includes an explanation of the benefits to be derived from the maintenance, repair, and replacement of street trees, sidewalks, curbs, gutters, and parking strips throughout the City, and the methodology used to apportion the total assessment to properties within the Landscaping Assessment District.

The Landscaping Assessment District consists of all Assessor Parcels within the boundaries of the City of Menlo Park as defined by the County of San Mateo tax code areas. The method used for apportioning the assessment is based upon the proportional special benefits to be derived by the properties in the Landscaping Assessment District over and above general benefits conferred on real property or to the public at large. The apportionment of special benefit is a two step process: the first step is to identify the types of special benefit arising from the improvements and the second step is to allocate the assessments to property based on the estimated relative special benefit for each type of property.

Discussion of Benefit

In summary, the assessments can only be levied based on the special benefit to properties. This benefit is received by property over and above any general benefits and such benefit is not based on any one property owner's use of the amenities or a property owner's specific demographic status. With reference to the requirements for assessment, Section 22573 of the Landscaping and Lighting Act of 1972 states:

"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."

Article XIII D, Section 4 of the California Constitution has confirmed that assessments must be based on the special benefit to property:

"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."

The following benefit categories summarize the types of special benefit to residential, commercial, industrial and other lots and parcels resulting from the installation, maintenance and servicing of landscaping and lighting improvements to be provided with the assessment proceeds. These categories of special benefit are derived from the statutes passed by the California Legislature and other studies which describe the types of special benefit received by property from maintenance and improvements such as those within by the District. These types of special benefit are summarized as follows:

- A. PROXIMITY TO IMPROVED LANDSCAPED AREAS WITHIN THE ASSESSMENT DISTRICT.
- B. ACCESS TO IMPROVED LANDSCAPED AREAS WITHIN THE ASSESSMENT DISTRICT.
- C. IMPROVED VIEWS WITHIN THE ASSESSMENT DISTRICT.
- D. ENHANCED ENVIRONMENT BECAUSE OF THE VIGOROUS STREET TREE PROGRAM FOR OWNERS OF PROPERTY IN THE LANDSCAPING ASSESSMENT DISTRICT.
- E. INCREASED SAFETY AGAINST TRIPPING AND OTHER HAZARDS CAUSED BY CRACKED OR DAMAGED SIDEWALKS, CURBS AND GUTTERS.
- F. ENHANCED DESIRABILITY OF THE PROPERTY.
- G. REDUCED LIABILITY FOR LANDSCAPE MAINTENANCE.

In this case, the recent the SVTA v. SCCOSA decision provides enhanced clarity to the definitions of special benefits to properties in three distinct areas:

- Proximity
- Expanded or improved access
- Views

The SVTA v. SCCOSA decision also clarifies that a special benefit is a service or improvement that provides a direct advantage to a parcel and that indirect or derivative advantages resulting from the overall public benefits from a service or improvement are general benefits. The SVTA v. SCCOSA decision also provides specific guidance that landscaping improvements are a direct advantage and special benefit to property that is proximate to landscaping that is improved by an assessment:

the characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g. proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g. general enhancement of the district's property values).

Proximity, improved access and views, in addition to the other special benefits listed above further strengthen the basis of these assessments.

Benefit Factors

The special benefits from the Improvements are further detailed below:

- **Proximity to improved landscaped areas within the Assessment District**

Only the specific properties within close proximity to the Improvements are included in the Assessment District. Therefore, property in the Assessment District enjoys unique and valuable proximity and access to the Improvements that the public at large and property outside the Assessment District do not share.

In absence of the assessments, the Improvements would not be provided and the landscaping areas in the Assessment District would be degraded due to insufficient funding for maintenance, upkeep and repair. Therefore, the assessments provide Improvements that are over and above what otherwise would be provided. Improvements that are over and above what otherwise would be provided do not by themselves translate into special benefits, but when combined with the unique proximity and access enjoyed by parcels in the Assessment District, they provide a direct advantage and special benefit to property in the Assessment District.

- **Access to improved landscaped areas within the Assessment District**

Since the parcels in the Assessment District are nearly the only parcels that enjoy close access to the Improvements, they directly benefit from the unique close access to improved landscaping areas that are provided by the Assessments. This is a direct advantage and special benefit to property in the Assessment District.

- **Improved views within the Assessment District**

The City, by maintaining these landscaped areas, provides improved views to properties in the Assessment District. The properties in the Assessment District enjoy close and unique proximity, access and views of the Improvements; therefore, the improved and protected views provided by the Assessments are another direct and tangible advantage that is uniquely conferred upon property in the Assessment District. The Landscaping Assessment District provides funding to maintain and protect these public resources and facilities of the City. For example, the assessments provide funding to trim and maintain the street trees to maintain them in a healthy condition. This benefits properties by maintaining and improving the public resources in the community.

In order to allocate the proposed assessments, the Engineer begins by identifying the types of special benefit arising from the maintenance, repair, and replacement of the aforementioned facilities and that would be provided to property within the District. These types of special benefit are as follows:

- **Enhanced environment because of the vigorous street tree program for owners of property in the Landscaping Assessment District.**

Residential properties benefit from the enhanced environment provided by a vigorous program to install and maintain the street trees at a level beyond that followed by other cities throughout the County. The increased use of street trees provides an atmosphere of beauty beyond the norm. The improvements to the trees will be available to residents and guests of properties within the District.

Non-residential properties also will benefit from these improvements in many ways. The use of street trees softens the environment making it more pleasant for employees during commute time and at breaks from their work. These improvements, therefore, enhance an employer's ability to attract and keep quality employees. The benefits to employers ultimately flow to the property because better employees improve the employment prospects for companies and enhanced economic conditions benefit the property by making it more valuable.

- **Increased safety against tripping and other hazards caused by cracked or damaged sidewalks, curbs and gutters.**

An aggressive inspection program identifies hazardous conditions in sidewalks, curbs and gutters caused by street trees and allows for these conditions to be repaired on a timely

basis. Timely repair of hazardous conditions greatly improves the overall safety of the environment, thereby providing for safer use of property.

- **Enhanced desirability of the property**

The assessments will provide funding to improve the City's street tree program, raising the quality to a more desired level, and to ensure that the sidewalks, curbs, and gutters remain operable, safe, clean and well maintained. Such improved and well-maintained facilities enhance the overall desirability of property. This is a benefit to residential, commercial and industrial properties.

- **Reduced liability for landscape maintenance**

The assessments will reduce the liability for landscape maintenance to street trees and other improvements. This is a benefit to residential, commercial and industrial properties.

General vs. Special Benefit

Article XIII D of the Constitution specifies that only special benefits are assessable and that the City must separate the general benefits from the special benefits conferred on any parcel. The complete analysis of special benefits and their allocation are found elsewhere in this report. For the Landscaping Assessment District, the City has identified a general benefit and has separated it from the special assessments.

The City's maintenance of street trees and sidewalk facilities provides a general benefit to the community and to the general public to some degree. The measure of this general benefit is the enhancement of the environment and safety provided to the greater public at large. This general benefit can be measured by the proportionate amount of time that the City's sidewalks and street trees are used and enjoyed by the greater public at large¹. It is reasonable to assume that approximately 1/4 or 25% of the usage and enjoyment of the improvements is by the greater public. Therefore, approximately 25% of the benefits conferred by the improvements are general in nature.

The City's total budget for maintenance and improvement of its trees and sidewalk facilities is \$1,086,981.00. Of this total budget amount, the City will contribute \$120,000 from

¹ . The greater public at large is generally defined as those who are not residents, property owners, customers or employees within the City, and residents who do not live in close proximity to the improvements.

sources other than the assessments for sidewalk repair and \$159,600 for street tree maintenance. In addition, a County program contributes \$13,000 for the tree maintenance fund, which is used by the City for street sweeping. These contributions by the City and County equate to approximately 26.9% of the total budget for maintenance, and when combined with the reserve funds carried forward from Fiscal Year the previous fiscal year, more than offset the cost of the general benefits resulting from the improvements.

In the 2009 Dahms case, the court upheld an assessment that was 100% special benefit on the rationale that the services funded by the assessments were directly provided within the assessment district. It is also important to note that the improvements and services funded by the assessments in Pomona are similar to the improvements and services funded by the Assessments described in this Engineer's Report and the Court found these improvements and services to be 100% special benefit. Also similar to the assessments in Pomona, the Assessments described in this Engineer's Report fund improvements and services directly provided within the Assessment District and every benefiting property in the Assessment District enjoys proximity and access to the Improvements. Therefore, Dahms establishes a basis for minimal or zero general benefits from the Assessments. However, in this Report, the general benefit is more conservatively estimated and described, and then budgeted so that it is funded by sources other than the Assessment.

Method of Assessment

The second step in apportioning assessments is to determine the relative special benefit for each property. This process involves determining the relative benefit received by each property in relation to a single family home, or, in other words, on the basis of Single Family Equivalents (SFE). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefit and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. For the purposes of this Engineer's Report, all properties are designated a SFE value, which is each property's relative benefit in relation to a single family home on one parcel. The "benchmark" property is the single family detached dwelling which is one Single Family Equivalent, or one SFE.

As stated previously, the special benefits derived from the assessments are conferred on property and are not based on a specific property owner's use of the improvements, on a specific property owner's occupancy of property, or the property owner's demographic status such as age or number of dependents. However, it is ultimately people who enjoy the special benefits described above, use and enjoy the City's trees and sidewalks, and control property values by placing a value on the special benefits to be provided by the

improvements. In other words, the benefits derived to property are related the average number of people who could potentially live on, work at or otherwise could use a property, not how the property is currently used by the present owner. Therefore, the number of people who could or potentially live on, work at or otherwise use a property is an indicator of the relative level of benefit received by the property.

ASSESSMENT APPORTIONMENT - Street Trees

PROPERTIES WITH STREET TREES

All improved residential properties that represent a single residential dwelling unit and have a street tree on or fronting the property are assigned 1.0 SFE. All single-family houses with tree(s) and those units in R-2 zones that are being used as single family dwellings (with trees) are included in this category.

Properties with more than one residential unit are designated as multi-family residential properties. These properties benefit from the improvements in proportion to the number of dwelling units that occupy each property and the relative number of people who reside in multi-family residential units compared to the average number of people who reside in a single-family home. The population density factors for the County of San Mateo are depicted below. The SFE factors for condominium, townhouse, and multi-family parcels, as derived from relative dwelling unit population density, are also shown below.

FIGURE 1 – RESIDENTIAL ASSESSMENT FACTORS

<i>Total Population</i>	<i>Occupied Households</i>	<i>Persons per Household</i>	<i>SFE Factor- Single Family Residential</i>	<i>SFE Factor- Condominium/ Townhouse</i>	<i>SFE Factor- Multi-Family Residential</i>
717,041	257,849	2.74	1.0	0.9	0.8

Source: 2003 Census, San Mateo County

The SFE factor for condominium, townhouse, and multi-family parcels is based on the ratio of average persons per household for the property type versus the average persons per household for a single family residential home. Multi-family units are assessed at 0.80 per

unit up to a maximum of 4.0 SFE per parcel (maximum of 5 units multiplied by 0.80). Condominium and townhouse parcels are assessed at 0.90 per unit, up to a maximum of 4.5 SFEs per development (maximum of 5 units multiplied by 0.90).

SFE values for commercial and industrial land uses are based on the equivalence of special benefit on a land area basis between single-family residential property and the average commercial/industrial property. The average size of a parcel for a single-family home in the District is approximately 0.18 acres, and such single-family property has an SFE value of 1.0. Using the equivalence of benefit on a land area basis, improved commercial and industrial parcels of approximately 0.20 acres or less would also receive an SFE benefit factor of 1.0. Commercial and industrial parcels in excess of a fifth of an acre in size are assigned 1.0 SFE per 0.20 acre or portion thereof, and the maximum benefit factor for any commercial/industrial parcel is 5.0 SFE.

Vacant parcels are also benefited from the street tree improvement and maintenance program. An example of a benefit is enhancement of the visual appeal that will accrue to a vacant parcel from the presence or proximity of the community's street trees based on its future potential use. Undeveloped property also benefits from the installation and maintenance of street trees, because if the property is developed during the year, the street trees will be available to the developed property. The relative benefit to vacant property is determined to be generally equal to the benefit to a single-family home property. Therefore, vacant property with street tree(s) are assessed 1 SFE.

PROPERTIES WITHOUT STREET TREES

The special benefit factors conferred on property can be defined by the benefits conferred to properties with and without street trees. The types of benefits conferred to all property in the community include protection of views, screening, and resource values and enhanced desirability of the property. A higher level of special benefits is conferred directly on parcels with street trees because these parcels obtain additional benefits from well-maintained, healthy trees fronting the property. The types of special benefits that are increased for properties with street trees include enhanced levels of safety, desirability, unique proximity, access and views of resources and facilities from healthy trees on the property. Therefore, individual properties without street trees but in close proximity to parcels with street trees receive a direct benefit from the street trees and should pay 50% of the rate for a similar property with street trees. Such properties are assigned an SFE benefit factor that is 50% of that for a similar property with street trees.

ASSESSMENT APPORTIONMENT - Sidewalk Program

The benefits to property for sidewalks, curbs, gutters and parking strips are closely related to a parcel's proximity to these improvements and the parcel's proximity to street trees. Street trees are the most common cause of sidewalk problems. Therefore, the highest benefit from the proposed sidewalk improvements is to properties with street trees and sidewalks, curbs and gutters, or street trees and parking strips and gutters, because without the maintenance work, these improvements would degrade more quickly, which would affect the parcel's appearance and safety. It is estimated that 1/3 of the special benefits are conferred to property with street trees and sidewalks or parking strips. Another 1/3 of the special benefits are conferred to property with street trees and curbs and gutters. Special benefit factors are also conferred on property without street trees or adjoining sidewalk, curb, gutter and/or parking strip improvements that are in close proximity to these types of improvements. It is estimated that the remaining 1/3 of the special benefit factors from the Sidewalk Program are conferred to these parcels that are in close proximity to the improvements but that do not have improvements directly adjacent to their property.

Consequently, properties with street trees and sidewalks or parking strips and curbs and gutters or valley gutters are assigned a benefit factor of 1 SFE. Properties with street trees, curbs and gutters are assigned a benefit factor of 0.67 SFE. If there are street trees but no improvements along the frontage of a parcel, or no street trees on a parcel, its benefit is 1/3 or 0.33 SFE.

ASSESSMENT APPORTIONMENT - Other Properties

Improved, publicly owned parcels that are used for residential, commercial or industrial purposes are assessed at the rates specified previously. Other improved public property; institutional property and properties used for educational purposes, typically generate employees on a less consistent basis than other non-residential parcels. Moreover, many of these parcels provide some degree of on-site amenities that serve to offset some of the benefits from the District. Therefore, these parcels, with or without street trees, receive minimal benefit and are assessed an SFE factor of 1 for street tree assessments and an SFE factor of 1 for sidewalks, curbs and gutter assessments.

All properties that are specially benefited have been assessed. Agricultural parcels without living units, public right-of-way parcels, well, reservoir or other water rights parcels, unimproved open space parcels, watershed parcels and common area parcels generally provide recreational, open space and/or scenic benefits to the community. As such, they tend to provide similar benefits as provided by the improvements in the District. Any

benefits they would receive from the landscaping maintenance are generally offset by the equivalent benefits they provide. Moreover, these parcels typically do not generate employees, residents or customers. Such parcels are, therefore, not specially benefited and are not assessed.

Appeals and Interpretation

Any property owner who feels that the assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment, may file a written appeal with the Engineering Services Manager of the City of Menlo Park or his or her designee. Any such appeal is limited to correction of an assessment during the then current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the Engineering Services Manager or his or her designee will promptly review the appeal and any information provided by the property owner. If the Engineering Services Manager or his or her designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County of San Mateo for collection, the Engineering Services Manager or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any dispute over the decision of the Engineering Services Manager or his or her designee shall be referred to the City Council of the City of Menlo Park and the decision of the City Council of the City of Menlo Park shall be final.

FIGURE 2 – TREE MAINTENANCE ASSESSMENTS

TREE MAINTENANCE ASSESSMENTS		
Property Type	2012-13 Assessment Rates	
Parcels with Trees		
Single Family	\$60.26	(per Parcel)
R-2 Zone, in use as single family	\$60.26	(per Parcel)
Condominium/Townhouse	\$54.23	(per Unit, \$271.17 max. per Project)
Other Multi-family	\$48.21	(per Unit, \$241.04 max. per Project)
Commercial	\$60.26	(per 1/5 acre, \$301.30 max. per Project)
Industrial	\$60.26	(per 1/5 acre, \$301.30 max. per Project)
Parks, Educational	\$60.26	(per Parcel)
Miscellaneous, Other	\$0.00	(per Parcel)
Parcels without Trees		
Single Family	\$30.13	(per Parcel)
R-2 Zone, in use as single family	\$30.13	(per Parcel)
Condominium/Townhouse	\$27.12	(per Unit, \$135.59 max. per Project)
Other Multi-family	\$24.10	(per Unit, \$120.52 max. per Project)
Commercial	\$30.13	(per 1/5 acre, \$150.65 max.)
Industrial	\$30.13	(per 1/5 acre, \$150.65 max.)
Parks, Educational	\$30.13	(per Parcel)
Miscellaneous, Other	\$0.00	(per Parcel)

FIGURE 3 – SIDEWALK, CURB, GUTTER, PARKING STRIP ASSESSMENTS

SIDEWALK, CURB, GUTTER, PARKING STRIP ASSESSMENTS		
Property Type	2012-13 Assessment Rate	
Parcels with Trees		
Sidewalks, curbs, gutters	\$28.70	(per Parcel)
Parking strips and gutters	\$28.70	(per Parcel)
Curbs and/or gutters only	\$19.23	(per Parcel)
No improvements	\$9.47	(per Parcel)
Miscellaneous, Other	\$0.00	(per Parcel)
Parcels without Trees		
Parcels with or without improvements	\$9.47	(per Parcel)
Miscellaneous, Other	\$0.00	(per Parcel)

Note: All total combined tree and sidewalk assessment amounts are rounded to the lower even penny.

ASSESSMENT

WHEREAS, on January 24, 2012 the City Council of the City of Menlo Park, County of San Mateo, California, pursuant to the provisions of the Landscaping and Lighting Act of 1972 and Article XIII D of the California Constitution (collectively "the Act"), adopted its Resolution Initiating Proceedings for the Levy of Assessments within the Landscaping Assessment District;

WHEREAS, said Resolution directed the undersigned Engineer of Work to prepare and file a report presenting an estimate of costs, a diagram for the assessment district and an assessment of the estimated costs of the improvements upon all assessable parcels within the assessment district, to which Resolution and the description of said proposed improvements therein contained, reference is hereby made for further particulars;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Act and the order of the City Council of said City of Menlo Park, hereby make the following assessment to cover the portion of the estimated cost of said improvements, and the costs and expenses incidental thereto to be paid by the assessment district.

The amount to be paid for said improvements and the expense incidental thereto, to be paid by the Landscaping Assessment District for the fiscal year 2012-13 is generally as follows:

FIGURE 4 – SUMMARY COST ESTIMATE

	<i>F.Y. 2012-13</i>
	<u><i>Budget</i></u>
Street Tree Program	\$541,513
Street Sweeping	\$167,209
Sidewalk Program	\$300,000
Incidental Expenses	\$78,259
TOTAL BUDGET	<u>\$1,086,981</u>
Plus:	
Projected Fund Balance	\$356,769
Less:	
City Contribution for General Benefits	(\$279,600)
County Contribution for General Benefits	(\$13,000)
Contribution from Carry-Over Fund Balances	(\$380,383)
NET AMOUNT TO ASSESSMENTS	<u><u>\$770,767</u></u>

As required by the Act, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of said Landscaping Assessment District. The distinctive number of each parcel or lot of land in the said Landscaping Assessment District is its Assessor Parcel Number appearing on the Assessment Roll.

And I do hereby assess and apportion said net amount of the cost and expenses of said improvements, including the costs and expenses incidental thereto, upon the parcels and lots of land within said Landscaping Assessment District, in accordance with the special benefits to be received by each parcel or lot, from the improvements, and more particularly set forth in the Cost Estimate and Method of Assessment hereto attached and by reference made a part hereof.

The assessment is made upon the parcels or lots of land within the Landscaping Assessment District in proportion to the special benefits to be received by the parcels or lots of land, from said improvements.

The assessment is subject to an annual adjustment tied to the Engineering News Record (ENR) Construction Cost Index for the San Francisco Bay Area, with a maximum annual adjustment not to exceed 3%. Any change in the ENR in excess of 3% shall be cumulatively reserved as the "Unused ENR" and shall be used to increase the maximum authorized assessment rate in years in which the ENR is less than 3%. The maximum authorized assessment rate is equal to the maximum assessment rate in the first fiscal year the assessment was levied adjusted annually by the minimum of 1) 3% or 2) the change in the ENR plus any Unused ENR as described above.

The change in the ENR from December 2010 to December 2011 was 0.83% and the Unused ENR carried forward from the previous fiscal year is 23.44% for tree maintenance and 42.06% for sidewalk maintenance. (The unused ENR for sidewalk maintenance is greater than the unused ENR for tree maintenance because no increases have been applied for sidewalk maintenance since 1998.) Therefore, the maximum authorized assessment rate for fiscal year 2012-13 is increased above the maximum authorized rate for the previous fiscal year, to \$92.81 per single family equivalent benefit unit for tree maintenance and \$41.44 per single family equivalent benefit unit for sidewalk maintenance. The estimate of cost and budget in this Engineer's Report proposes assessments for fiscal year 2012-13 at the rate of \$60.26 per single family equivalent benefit unit for tree maintenance, which is less than the maximum authorized assessment rate and is the same rate that was assessed in the previous fiscal year. The proposed assessment rate for fiscal year 2012-13 for sidewalk maintenance is \$28.70 per single family equivalent benefit unit, which is also less than the maximum authorized assessment rate and is also the same rate that was assessed in the previous fiscal year.

Property owners in the Assessment District, in an assessment ballot proceeding, approved the initial fiscal year benefit assessment for special benefits to their property including the ENR adjustment schedule. As a result, the assessment may continue to be levied annually and may be adjusted by up to the maximum annual ENR adjustment without any additional assessment ballot proceeding. In the event that in future years the assessments are levied at a rate less than the maximum authorized assessment rate, the assessment rate in a subsequent year may be increased up to the maximum authorized assessment rate without any additional assessment ballot proceeding.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of San Mateo for the fiscal year 2012-13. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of said County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2012-13 for each parcel or lot of land within the said Landscaping Assessment District.

May 16, 2012

Engineer of Work


By 
John W. Bliss, License No. C52091



FIGURE 5 – ENGINEER’S COST ESTIMATE, FISCAL YEAR 2012-13

A. Tree Maintenance

Salaries & Benefits	\$284,589.00	
Operating Expense	\$29,724.00	
Fixed Assets & Capital Outlay	\$9,000.00	
Vehicle & Equipment Maintenance	\$18,200.00	
Professional Services (Tree Spraying, Tree Trimming, Misc.)	\$200,000.00	
Subtotal - Tree Maintenance		<u>\$541,513.00</u>

B. Debris Removal

Salaries & Benefits	\$53,446.00	
Operating Expense	\$3,763.00	
Street Sweeping Contract	\$110,000.00	
Subtotal - Debris Removal		<u>\$167,209.00</u>

C. Sidewalk, Curb, Gutter, Parking Strip Repair/Replacement

Construction Costs	\$222,600.00	
Design & Inspection	\$77,400.00	
Subtotal - S/W,C,G, & PS Repair/Replace		<u>\$300,000.00</u>
Subtotal Tree/Debris/Reforestation/Sidewalk		<u>\$1,008,722.00</u>

D. Incidentals

Indirect Costs & Administration	\$63,259.00	
County Collection Fees	\$15,000.00	
Subtotal - Incidentals		<u>\$78,259.00</u>

Total Cost		<u>\$1,086,981.00</u>
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Projected Fund Balance	\$356,769.26
Tree Maintenance Ending Fund Balance	(\$98,224.00)
Less General Fund Contribution	(\$159,600.00)
Less C/CAG Contribution - Street Sweeping	(\$13,000.00)
Sidewalk Fund Ending Balance	(\$282,159.00)
Less General Fund CIP Contribution to Sidewalk Fund	(\$120,000.00)
Net to Assessment	\$770,767.26

Revenue

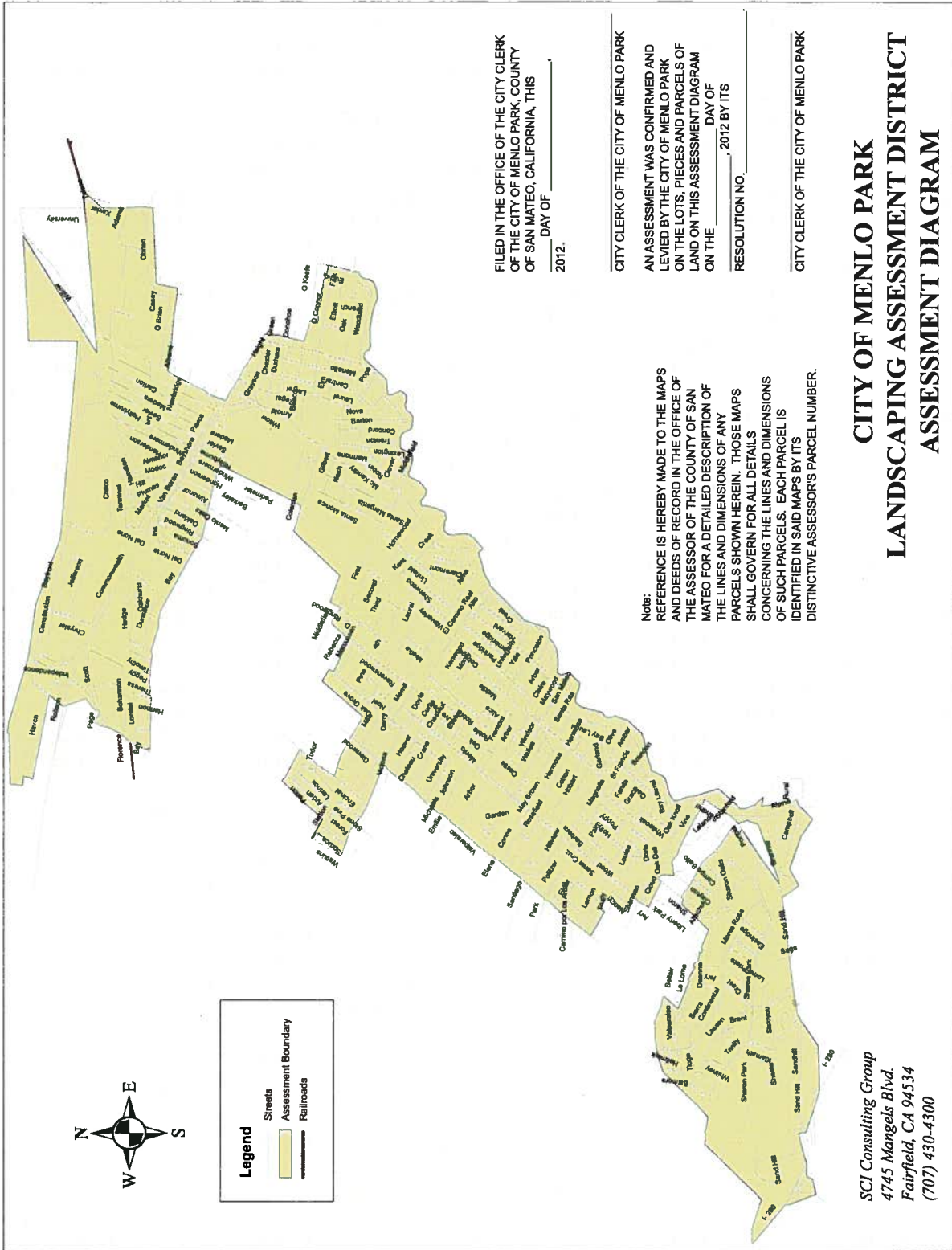
Single Family Equivalent Benefit Units - Trees	9,393.55
Single Family Equivalent Benefit Units - Sidewalks	7,132.82
	2012/13 2011/12
Assessment Rate for Tree Fund/ SFE	\$60.26 \$60.26
Assessment Rate for Sidewalk Fund/ SFE	\$28.70 \$28.70
Revenue for Tree Fund	\$566,055.32
Revenue for Sidewalk Fund	\$204,711.93
Total Revenue *	\$770,767.26

* Total revenue is slightly less than SFEs times the assessment rate because all combined assessments are rounded down to the even penny.

ASSESSMENT DIAGRAM

The Landscaping Assessment District includes all properties within the boundaries of the City of Menlo Park.

The boundaries of the Landscaping Assessment District are displayed on the following Assessment Diagram.



Appendix A – Assessment Roll, FY 2012-13

Reference is hereby made to the Assessment Roll in and for the assessment proceedings on file in the office of the City Clerk of the City of Menlo Park, as the Assessment Roll is too voluminous to be bound with this Engineer's Report.



PUBLIC WORKS DEPARTMENT

Council Meeting Date: June 12, 2012

Staff Report #: 12-092

Agenda Item #: E-2

PUBLIC HEARING: Adopt a Resolution Authorizing Collection of a Regulatory Fee at Existing Rates to Implement the Local City of Menlo Park Storm Water Management Program for Fiscal Year 2012-13

RECOMMENDATION

Staff recommends that the City Council adopt a resolution authorizing collection of a regulatory fee at existing rates to implement the local City of Menlo Park Storm Water Management Program for FY 2012-13.

BACKGROUND

Two types of stormwater related fees and charges are funded by Menlo Park residents: a local regulatory fee, applicable to the City of Menlo Park only, and a countywide fee applicable to general program activities benefitting all agencies within San Mateo County. The City Council is currently scheduled to consider authorization of both fees on June 12, 2012. The following background information is specific to the local program.

In 1991, the San Francisco Bay Regional Water Quality Control Board (Board) issued a Municipal Storm Water Permit to San Mateo County and its 21 incorporated cities. The permit, issued under the National Pollution Discharge Elimination System (NPDES) program, was intended to protect surface water quality against a variety of pollutants, and has been updated by the Board several times, with new and more stringent requirements added.

The Board adopted the current Municipal Regional Stormwater Permit (MRP) in October 2009 which became effective on December 1, 2009 and expires on November 30, 2014. The MRP incorporates the following 14 provisions (C.2 through C.15) with goals, tasks, schedules, and reporting requirements to be completed in order to be compliant with the NPDES permit. The MRP is available on the City's website under "Public Works - Stormwater Quality."

<u>Provision</u>	<u>Title</u>
C.2	Municipal Operations
C.3	New Development and Redevelopment
C.4	Industrial and Commercial Site Controls
C.5	Illicit Discharge Detection and Elimination
C.6	Construction Site Control

- C.7 Public Information and Outreach
- C.8 Water Quality Monitoring
- C.9 Pesticides Toxicity Control
- C.10 Trash Load Reduction
- C.11 Mercury Controls
- C.12 Polychlorinated Biphenyls (PCBs) Controls
- C.13 Copper Controls
- C.14 Polybrominated Diphenyl Ethers (PBDE), Legacy Pesticides and Selenium
- C.15 Exempted and Conditionally Exempted Discharges

The MRP also requires that the City provide funding for adopting, enforcing, and implementing the provisions listed above. In July 1994, the City Council adopted Ordinance No. 859, "Storm Water Management Program." Article V of the ordinance established a regulatory fee to address the need for a separate local funding mechanism to fund the City's Storm Water Management Program, and requires the City to implement the regulatory fee on an annual basis.

ANALYSIS

The recommended authorization allows the City to continue to collect storm water fees at the existing rates from all developed parcels within the City boundaries. Fees are based upon the impervious area of each individual parcel.

The following table lists the proposed program budget for FY 2012-13. Staff anticipates that the Council will approve this budget as part of the overall City budget scheduled for adoption June 12, 2012.

	Program Items	2012-13 Proposed Budget
1	Staff administration and operating costs. City's cost for personnel and operating expenses to implement the requirements of the MRP, including reporting, participation in Technical Advisory Committee and subcommittees, creek management efforts and administration of the street sweeping program.	\$242,352
2	Storm drain/creek cleaning. Maintenance programs to clean storm drain inlets, San Francisquito Creek, and Atherton Channel.	\$38,000
3	Creek cleanup and monitoring. Contract with the City of Redwood City for creek cleanup and monitoring.	\$50,000
4	Watershed Council. City's contribution to the San Francisquito Creek Watershed Council for coordination of educational, maintenance, watershed planning, and other issues.	\$7,500
5	General and Administrative Overhead. City's obligation to the General Fund for Finance and Administrative Services.	\$12,800
6	Miscellaneous professional services. Stenciling of storm drains, updating the storm drain base map, geographic information services development, public information brochures, etc.	\$8,500
	Total	\$359,152

Compared to the FY 2011-12 budget, the proposed overall budget for FY 2012-13 has decreased by almost \$150,000 to ensure that stormwater expenditures do not exceed revenues, which has been the case since FY 2001-02. In order to reduce expenditures, \$55,000 in Street Sweeping Services and \$108,000 (\$40,000 previously funded by the Redevelopment Agency Fund) in the City's yearly contribution to the San Francisco Creek Joint Power Authority has been moved to the General Fund. To help offset this increase in expenses to the General Fund, staff will utilize \$55,000 in Measure M funding (\$10 Vehicle Registration Fee).

Fee Structure

The current annual fee is based on a rate of \$5.25 per 1,000 square feet of impervious area for each property in the community. The fee for single-family residences varies depending on the amount of impervious area and the size of the lot. Staff proposes no change to the fee structure in FY 2012-13. (Increasing the fee would require the City to conduct a property-owner voting procedure in accordance with State Proposition 218.) The average annual fee will continue to be \$16 in the Belle Haven neighborhood, \$18 in the Willows, \$20 in Central Menlo Park and \$26 in Sharon Heights. The annual fee for a typical commercial property downtown along Santa Cruz Avenue with a 5,000 square-foot lot will remain at \$26.25.

Credit Towards Reduction of Regulatory Fee

As an incentive to commercial and industrial property owners, the City continues to provide a credit of up to 25 percent of the regulatory fee if the property meets certain Best Management Practices (BMPs). Common BMPs include: storm drain inlet stenciling, providing proof of a vacuum sweeping contract, training employees on correct disposal of potential pollutants, and implementation of landscape and pollution-control practices. Most new projects are required to use BMPs during construction, but implementation of new BMPs after the project has been completed and/or maintenance of existing BMPs previously installed is voluntary. The BMP credit program focuses on providing an incentive to owners of larger properties that implemented BMPs and to property owners who do not intend to develop but are interested in installing BMPs, to help protect the environment.

Staff will continue to inspect sites to determine the appropriate credit towards fee reduction based on the type of BMP used and the level of effort for maintenance. For example, labeling a storm drain does not result in the same benefit as placing an oil-sand filter in the storm drain and therefore results in a smaller credit. Staff performs inspections on an annual basis to determine whether any additional BMPs have been implemented and to verify that earlier BMPs are being maintained.

This year, staff received and inspected 23 applications from commercial and industrial properties that are implementing BMPs. The property owners have installed "Drains to the Bay" labels on their storm drain inlets, vacuum swept their parking lots, trained their employees on correct disposal of potential pollutants, and implemented landscape and

pollution-control practices. Consistent with prior years, the typical credit amount is approximately 15 percent.

Schedule

If the Council adopts the resolution authorizing collection of the regulatory fee at existing fee rates to implement the local City of Menlo Park Storm Water Management Program for FY 2012-13, staff will forward the fee database directly to the County for preparation of the FY 2012-13 tax bills.

IMPACT ON CITY RESOURCES

The following table shows the projected budget for the Storm Water Management Program for FY 2012-13.

Proposed FY 2012-13 Budget	
Projected Beginning Fund Balance	\$129,411
Estimated Revenues (based on impervious area per parcel):	\$329,000
Estimated Expenses	(\$359,152)
Projected Ending Fund Balance	\$99,259

The current fee structure is expected to generate revenues of \$329,000 in FY 2012-13. With an estimated \$129,411 carryover from the FY 2011-12 Storm Water Management Fund, sufficient funds will be available for the proposed FY 2012-13 expenditures program budget. However, annual revenues generated by the fee have not covered the increasing costs of implementing the current program requirements since FY 2001-02. The total stormwater program expenditures is \$587,036 of which the Storm Water Management Fund pays \$359,152 and the General Fund \$227,884. The proposed FY 2012-13 budget shows the General Fund increasing from previous years to include street sweeping services and the City’s yearly contribution to the San Francisco Joint Power Authority.

The fee is subject to the requirements of Proposition 218 as a property-related fee, thus any increase would be subject to voter approval. Yearly fund balances have made up the difference, but will not be sufficient to meet any new demands or unexpected expenses. With a projected FY 2012-13 end fund balance of \$99,259, and with the increased costs to implement current MRP requirements, there may be a need to increase fees in the near future.

The City Council approved a Storm Drainage Fee Study as a project priority in FY 2007-08. The study would evaluate funding options to address increased regulatory requirements and the need to fund long-term storm drainage improvements. A report to the Council on storm drainage fees was postponed because the City/County Association of Governments (C/CAG) has been assembling information and conducting preliminary research to determine if voters would support a countywide assessment to fund stormwater programs. C/CAG is preliminarily looking at funding a stormwater assessment through a Proposition 218 election in FY 2013-14.

The staff recommendation preserves funding at the current level which is sufficient to cover the cost of this program for FY 2012-13.

POLICY ISSUES

The staff recommendation will allow the City to continue its Stormwater Management activities at the current level through FY 2012-13. It is important to note that the program has been successful in reporting requirements, public education, business inspections, municipal maintenance, and development related requirements.

ENVIRONMENTAL REVIEW

Environmental review is not required for this action.



Pam Lowe, P.E.
Associate Civil Engineer



Rúben Niño
Assistant Public Works Director

PUBLIC NOTICE: Public Notification consists of posting the agenda, with this item being listed, at least 72 hours prior to the meeting, and publishing legal notices on May 24, 2012 and May 31, 2012 in *The Daily News*.

ATTACHMENT:

- A. Resolution

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AUTHORIZE COLLECTION OF A REGULATORY FEE AT EXISTING RATES TO IMPLEMENT THE LOCAL CITY OF MENLO PARK STORM WATER MANAGEMENT PROGRAM FOR FISCAL YEAR 2012-13

WHEREAS, Section 402(p) of the Clean Water Act (33 U.S.C. 1251 et seq.) as amended by the Water Quality Control Act of 1987, requires that all large and medium-sized incorporated municipalities must effectively prohibit non-storm water discharges into storm sewers; and further requires controls to reduce the discharge of pollutants from storm water systems to waters of the United States to the maximum extent practicable; and

WHEREAS, the City of Menlo Park, in conjunction with all of the incorporated cities in San Mateo County, has prepared the Storm Water Management Plan, which has a General Program to be administered and funded through the San Mateo County Flood Control District, and a specific program for each city, to be administered and funded by each city; and

WHEREAS, the Menlo Park specific program includes those efforts and programs required to be undertaken by the City of Menlo Park to support and address its responsibility to regulate and enforce local pollution control components under the Storm Water Management Plan; and

WHEREAS, the Menlo Park City Council is authorized and/or mandated by Ordinance No. 859 adopted on July 12, 1994, and including the following federal and/or state statutes: the federal Clean Water Act as amended in 1987; the National Pollutant Discharge Elimination System Permit Application Regulations for Stormwater Discharges; the California Constitution, Article XI, Section 7 of the California Water Code Section 13002; and Part 3 of Division 5 of the California Health and Safety Code, to impose a regulatory fee to enforce the local storm water pollution control components of the San Mateo County Stormwater Management Plan upon the businesses, entities, residents, and unimproved properties of the City of Menlo Park; and

WHEREAS, that the City Council of the City of Menlo Park conducted a noticed public hearing to consider this resolution as part of an overall plan addressing, regulating, and reducing non-point source pollution discharges within the City of Menlo Park, and including regulatory fees necessary to ensure local compliance with the federal and/or state statutes.

NOW THEREFORE BE IT RESOLVED AND IS HEREBY FOUND, DETERMINED, AND ORDERED AS FOLLOWS:

1. That the Engineering Services Manager for the City of Menlo Park is the authorized collection agent for the regulatory fees authorized and/or mandated by federal

and/or state statutes, and is hereinafter empowered to collect, contract for collection, enforce, and/or institute other proceedings necessary for the collection of the regulatory fee.

2. That the Engineering Services Manager is hereby directed to file, or cause to be filed, the amount of regulatory fees as described and shown on the attached Exhibit "A" including the diagram shown on the County Assessor's maps to be imposed and the parcels upon which such regulatory fees are imposed, with the County Auditor and/or the County Tax Collector of the County of San Mateo no later than early August 2012. For each parcel upon which a regulatory fee has been imposed, the regulatory fee shall appear as a separate item on the tax bill and shall be levied and collected at the same time and in the same manner as the general tax levy for City purposes.
3. That the Public Works Director is authorized to enter into those agreements necessary to have the County of San Mateo perform the regulatory fee collection services required; and the City Council hereby authorizes the County of San Mateo to perform such services, and for the City to pay the County of San Mateo for the reasonable costs of those collection services so provided.

BE IT FURTHER RESOLVED that said Council authorized the establishment of a Regulatory Fee imposed to pay for costs to implement the Storm Water Management Program in accordance with Exhibit "A" attached hereto and incorporated herein by this reference.

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 Public Hearing held by the City Council of the City of Menlo Park on the twelfth day of June, 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 twelfth day of June, 2012.

Margaret S. Roberts, MMC
City Clerk

EXHIBIT "A"

CITY OF MENLO PARK

Storm Water Management Program Regulatory Fee

Fiscal Year 2012-13

All Residential/Commercial/Industrial

All residential/commercial/industrial properties and other non-residential properties shall pay \$.00525 per square foot of impervious area.

Exempt from fee: Federal, State, County, Flood Plain, and City Government parcels.



PUBLIC WORKS DEPARTMENT

Council Meeting Date: June 12, 2012

Staff Report #: 12-089

Agenda Item #: E-3

PUBLIC HEARING: Adopt a Resolution Recommending that the San Mateo County Flood Control District Impose Basic and Additional Charges for Funding the Fiscal Year 2012-13 Countywide National Pollutant Discharge Elimination System General Program

RECOMMENDATION

Staff proposes that the City Council adopt a resolution recommending that the San Mateo County Flood Control District impose basic and additional charges for funding the FY 2012-13 Countywide National Pollution Discharge Elimination System (NPDES) General Program.

BACKGROUND

Two types of stormwater related fees and charges are funded by Menlo Park property owners: a local regulatory fee, applicable to the City of Menlo Park only, and a countywide fee, which is applicable to general program activities benefitting all agencies within San Mateo County. The City Council is currently scheduled to consider authorization of both fees. The following background information is specific to the countywide program.

In 1991, the San Francisco Bay Regional Water Quality Control Board (Board) issued a NPDES Municipal Storm Water Permit to San Mateo County and its 21 incorporated cities. The permit required the cities and County to implement a Stormwater Management Program (SWMP) to reduce the pollution of waterways. Since the original permit was issued, the Board has reviewed the permit and requires that the SWMP be updated every five years.

Since 1992, the San Mateo County Flood Control District has been collecting fees on behalf of the cities to pay for the portion of the SWMP that benefits all agencies in the County. This has been an effective approach in minimizing the costs of implementing the SWMP. The charges imposed by the County Flood Control District pay for the costs of the General Program (program elements benefitting all 21 co-permittees). A detailed description of the services provided by the General Program is included within the analysis, below.

The Board adopted the Municipal Regional Stormwater Permit (MRP) in October 2009, with an effective date of December 1, 2009 and which expires on November 30, 2014.

The MRP incorporates the following 14 provisions (C.2 through C.15) with goals, tasks, schedules, and reporting requirements to be completed in order to be in compliance with the NPDES permit. The MRP is available on the City’s website under “Public Works - Stormwater Quality.”

<u>Provision</u>	<u>Title</u>
C.2	Municipal Operations
C.3	New Development and Redevelopment
C.4	Industrial and Commercial Site Controls
C.5	Illicit Discharge Detection and Elimination
C.6	Construction Site Control
C.7	Public Information and Outreach
C.8	Water Quality Monitoring
C.9	Pesticides Toxicity Control
C.10	Trash Load Reduction
C.11	Mercury Controls
C.12	Polychlorinated Biphenyls (PCBs) Controls
C.13	Copper Controls
C.14	Polybrominated Diphenyl Ethers (PBDE), Legacy Pesticides and Selenium
C.15	Exempted and Conditionally Exempted Discharges

ANALYSIS

The San Mateo Countywide Water Pollution Prevention Program (Program) is responsible for coordinating the activities that benefit all 21 agency co-permittees involved with the implementation of the Stormwater Management Plan. The Program also ensures adherence to the conditions set forth under the Countywide NPDES permit. The following NPDES Permit items are funded by fees generated throughout the County and used to administer the General (Countywide) Program.

Program Coordination

- A Regional Permit Coordinator chairs each of the five major subcommittees- Municipal Government Maintenance, Industrial and Illicit Discharge, New Development/Redevelopment, Public Information and Participation and Watershed Monitoring. The Permit Coordinator interfaces between the subcommittees, consultant administrator and the Regional Board, and helps establish the annual budget.
- A consultant administrator attends all subcommittee meetings, produces meeting minutes, reports on current legislation affecting municipalities, and helps the Program agencies meet the requirements of the General Permit.

Develop and Implement Performance Standards

- The consultant administrator develops training materials, graphs, spreadsheets, documents, and timelines that assist the municipalities in reporting on and complying with the various permit requirements.

Performance Monitoring

- The consultant administrator develops, distributes, collects, tabulates various performance-monitoring report information, and submits it to the Regional Board.
- The consultant administrator evaluates the effectiveness of implemented controls in the areas of municipal maintenance; commercial, industrial, and illicit discharge; public information/participation; new development/redevelopment; and watershed monitoring.

Publications and Education Programs

- The consultant administrator develops and implements the public information and participation program including website development, brochures, outreach programs in the local schools and training flyers, as required by the General Permit to educate the public.

Funding

The total budget for the Countywide SWMP proposed for FY 2012-13 is \$3,280,270, an increase of 41 percent over the FY 2011-12 budget (\$2,327,870). The primary cause of the budget increase, which is expected due to the phasing and ramping up of Municipal Regional Permit requirements, is attributed to an increase of compliance activities in the monitoring and pollutants of concern sections of the permit, in addition to budgeting funds for a countywide Proposition 218 effort.

The budget must be approved by the City and County Association of Governments (C/CAG), which deals with issues that affect the quality of life in general in San Mateo County, including storm water runoff. The proposed Program FY 2012-13 budget will be presented to the C/CAG board on June 14, 2012 for approval. The proposed budget utilizes outside revenue in the form of Measure M – Vehicle Registration Fee, grant revenues, and a portion of the program’s reserves.

The fee collected by the County consists of two separate charges covering the “Basic” and “Additional” Fees. The Basic Fee does not change from year-to-year, whereas the Additional Fee was structured to change by a percentage equal to the movement in the Consumer Price Index (Bureau of Labor, Urban Wage Earners), a 1.03 percent increase from February 2011 to February 2012. As a result, the County is proposing that the “Additional” Fee be increased for FY 2012-13.

Fee increases to be collected by the County vary, depending upon the land use category. The Additional Fee is proposed to increase next fiscal year by \$0.04 per parcel for Miscellaneous, Agricultural, Vacant, and Condominium land uses and by \$0.10 per parcel for all other land uses. The current and proposed annual fees are shown in the following table:

Land Use Category	Current Fee FY 2011-12		Proposed Fee FY 2012-13		Proposed Total Fee Increase per Parcel
Single Family Residence (per parcel)	Basic	\$3.44	Basic	\$3.44	\$0.10
	Additional	<u>\$2.98</u>	Additional	<u>\$3.08</u>	
	Total	\$6.42	Total	\$6.52	
Miscellaneous, Agriculture, Vacant, and Condominium (per parcel)	Basic	\$1.72	Basic	\$1.72	\$0.04
	Additional	<u>\$1.50</u>	Additional	<u>\$1.54</u>	
	Total	\$3.22	Total	\$3.26	
All Other Land Uses (per parcel)	Basic	\$3.44	Basic	\$3.44	\$0.10
	Additional	<u>\$2.98</u>	Additional	<u>\$3.08</u>	
	Total	\$6.42	Total	\$6.52	
		(\$6.42 for the first 11,000 sq. ft.; \$0.58* for each additional 1,000 sq. ft.)		(\$6.52 for the first 11,000 sq. ft.; \$0.60 for each additional 1,000 sq. ft.)	
	*\$0.32 Basic fee, \$0.26 Additional fee		*\$0.32 Basic fee, \$0.28 Additional fee		

IMPACT ON CITY RESOURCES

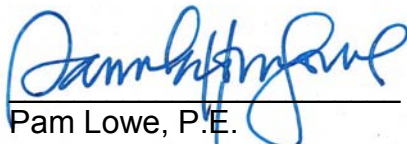
The estimated share of County revenues to be collected on behalf of the City of Menlo Park from the FY 2012-13 Countywide program is \$83,144, based on the above rates per parcel. By adopting the attached resolution, Council is authorizing the County to levy these fees on Menlo Park properties and to use the revenue for Countywide storm water management activities. If the Council chooses not to have the County collect these fees, the impact on City resources will be approximately \$83,144 as the City is required by the NPDES permit to participate in the program.

POLICY ISSUES

The staff recommendation will result in the City's continuing ability to comply with the NPDES permit and to participate in the regional Program.

ENVIRONMENTAL REVIEW

Environmental review is not required for this action.



Pam Lowe, P.E.
Associate Civil Engineer



Ruben Niño
Assistant Public Works Director

PUBLIC NOTICE: Public Notification consists of posting the agenda, with this item being listed, at least 72 hours prior to the meeting, and publishing legal notices on May 24, 2012 and May 31, 2012 in *The Daily News*.

ATTACHMENT:

- A. Resolution

RESOLUTION NO.**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
RECOMMENDING THAT THE SAN MATEO COUNTY FLOOD CONTROL
DISTRICT IMPOSE BASIC AND ADDITIONAL CHARGES FOR FUNDING THE
SCOPE OF WORK FOR THE FISCAL YEAR 2012-13 COUNTYWIDE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PROGRAM**

WHEREAS, the Environmental Protection Agency, under amendments to the 1987 Federal Clean Water Act, imposed regulations that mandate local governments to control and reduce the amount of stormwater pollutant runoff into receiving waters; and

WHEREAS, under the authority of California Porter-Cologne Water Quality Act, the State Water Resources Control Board has delegated authority to its regional boards to invoke permitting requirements upon counties and cities; and

WHEREAS, in July 1991, the San Francisco Bay Regional Water Quality Control Board notified San Mateo County of the requirement to submit an NPDES Permit Application by November 30, 1992; and

WHEREAS, in furtherance of the NPDES Permit Process, San Mateo County in conjunction with all incorporated cities in San Mateo County has prepared a San Mateo Countywide Stormwater Management Plan which has a General Program as a fundamental component of the Management Plan; and

WHEREAS, the San Francisco Bay Regional Water Quality Control Board, after a Public Hearing, approved the Renewed NPDES Permit CAS0029921, effective July 21, 1999, and which expired July 20, 2004; and

WHEREAS, with the complete and timely application by the San Mateo Countywide Stormwater Pollution Prevention Program for Permit renewal submitted on January 23, 2004, the San Francisco Bay Regional Water Quality Control Board administratively extended the expiration of said Permit until such time as a Public Hearing is held and the application is considered; and

WHEREAS, the San Francisco Bay Regional Water Quality Control Board adopted NPDES Permit CAS612008 on October 14, 2009, effective December 1, 2009, and which expires on November 30, 2014; and

WHEREAS, the San Mateo County Flood Control District Act, as amended by the State Legislature in 1992 (Assembly Bill 2635), authorized the San Mateo County Flood Control District ("District") to impose charges to fund storm drainage programs such as the NPDES Countywide General Program; and

WHEREAS, the Basic Annual Charges and Additional Annual Charges for FY 2012-13, when adopted, would be necessary to fund a \$3,280,270 Budget for FY 2012-13, and are as follows:

Basic Annual Charges;

- Single Family Residence: \$3.44/APN
- Miscellaneous, Agriculture, Vacant, and Condominium: \$1.72/APN
- All Other Land Uses: \$3.44/APN for the first 11,000 square feet plus \$0.32 per 1,000 additional square feet of parcel area.

Additional Annual Charges (Adjusted Annually by C.P.I.);

- Single Family Residence: \$3.08/APN
- Miscellaneous, Agriculture, Vacant, and Condominium: \$1.54/APN
- All Other Land Uses: \$3.08/APN for the first 11,000 square feet plus \$0.28 per 1,000 additional square feet of parcel area.

WHEREAS, the charges are in the nature of a sewer service charge in that they are intended to fund a federally mandated program the purpose of which is to create waste treatment management planning processes to reduce the amount of pollutants in discharges from property into municipal storm water systems which, in turn, discharge into the waters of the United States; and

WHEREAS, the City of Menlo Park has held a meeting upon the proposal to fund the Countywide NPDES General Program through the San Mateo County Flood Control District; the City Council makes the below resolve following that meeting.

NOW THEREFORE, BE IT RESOLVED AND IS HEREBY FOUND, DETERMINED, AND ORDERED AS FOLLOWS:

1. The City of Menlo Park respectfully requests the San Mateo County Board of Supervisors, acting as the governing board of the San Mateo County Flood Control District, to impose those basic and additional charges necessary to fund the FY 2012-13 Countywide NPDES General Program; and
2. The City of Menlo Park requests that all properties within the territorial limits of said City be charged the basic and additional annual charges in accordance with said charges stated above; and
3. The City Clerk is hereby directed to forward copies of this Resolution to the Clerk of the San Mateo County Board of Supervisors, the San Mateo County Flood Control District, the San Mateo County Engineer, and to the NPDES Coordinator of C/CAG.

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

Margaret S. Roberts, MMC
City Clerk



ADMINISTRATIVE SERVICES

Council Meeting Date: June 12, 2012
Staff Report #: 12-093

Agenda Item F-1

REGULAR BUSINESS: Adoption of Resolutions: Adopting the 2012-13 Budget and Capital Improvement Program for the City of Menlo Park; Establishing the Appropriations Limit for Fiscal Year 2012-13; Establishing a Consecutive Temporary Tax Percentage Reduction in Utility Users Tax Rates; and Determining the Continued Need for Imposition of the Utility Users Tax per Section 3.14.310 of the Municipal Code

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolutions which

1. Adopt the City of Menlo Park 2012-13 Budget and Capital Improvements Program (Attachment A);
2. Establish the City's appropriations limit for the 2012-13 fiscal year (Attachment B);
3. Effect a consecutive temporary reduction in Utility User Tax rates to continue the current one percent tax rate on all utilities as of October 1, 2012 (Attachment C); and
4. Make findings that the utility users' tax is necessary for the financial health of the City (Attachment D).

BACKGROUND

The national recession, which began in December 2007, provided many challenges in the development of municipal budgets for the past four fiscal years. California's prolonged budget crisis exacerbated these fiscal challenges, faced across the State by all local governments and their constituents. Because local government revenues lag both economic downturn and economic recovery, the slow recovery evident in many sectors of the economy was not a reality in municipal budgets until long after the recession was officially over. Although the City had prudently accumulated General Fund reserves during the economic expansion, it continued to be confronted with the a statewide dilemma faced by all local governments: increasing expenditures which continued to outpace the recovery of decreased revenues. Pension costs, in particular had risen statewide, due to changes in benefit levels and investment losses in the Public Employees Retirement (CalPERS) system. The City strategically reduced spending and re-aligned services with projected revenues by personnel and operational reductions. Despite the difficult economic environment, Menlo Park's revenues began to stabilize in 2010-11; in the current fiscal year, it appears that a modest recovery is finally underway.

However, because of the uncertain pace of economic growth, staff continues its ongoing review and analysis of the organization in order to identify other strategies to move the City toward budget sustainability.

The 2012-13 Budget Process

Amid this slow recovery, the State dealt a severe blow to local redevelopment agencies. Last December, the California Supreme Court delivered its decision upholding ABx1 26 (the “Dissolution Act”), which requires that all California redevelopment agencies, including the Community Development Agency (CDA) of the City of Menlo Park, be dissolved as of February 1, 2012. The City needed to determine which activities previously funded by the CDA would be continued, and how they would be funded. To the extent that alternative funding was to be provided from the General Fund, other City services would need to be adjusted to prevent deficit spending. On January 30th, a study session was held to discuss preferred approaches for addressing the loss of redevelopment funding for the 2012-13 operations and capital budgets. The City’s Housing Division, formerly funded largely from redevelopment revenues, was eliminated, resulting in a 3.0 FTE reduction. Still, the absorption of operations previously supported with redevelopment funds would cost the City’s General Fund approximately \$1.3 million. Staff was directed to pursue other approaches to help resolve the remaining budgetary challenges, including the advancement of new or increased revenue sources, alternative service delivery where efficiencies could be obtained, continued short-term cost reduction measures, and use of alternative funding sources.

The City Manager’s Proposed Budget, presented on May 22nd, reflected a mix of these budget strategies. Ultimately, the addition of Facebook Development Agreement revenues (\$800,000 for 2012-13) allowed the proposed budget to reflect a \$296,000 *surplus* for the fiscal year. Upon review of the proposed budget, the Council decided to suspend implementation of the cost-reduction strategy to merge the Belle Haven After School program with another service provider, thereby reducing the surplus somewhat. Although options to use the budgetary surplus to reinstate past-year service reductions were discussed, the Council did not support any further adjustments, citing not only the struggling economic recovery, but the proposed budget’s reliance on an increase in the City’s Hotel tax rates. Such a tax rate increase would depend on the results of a ballot measure in November, at which time the issue could be revisited.

ANALYSIS

Overview

The fiscal environment for the City of Menlo Park has change significantly over this past year. While the dissolution of the redevelopment agency dealt a heavy blow to funding programs and projects designed to improve the Las Pulgas Community Development Project Area, the arrival of Facebook seeking to develop its permanent headquarters in Menlo Park had already begun to revitalize the area. Over the past year, Facebook has transformed its 56.9 acre East Campus from an under-utilized site to one bustling with

employees and promise. Plans for the build-out of the 22-acre West Campus (not within the former redevelopment area) contemplates construction of five additional buildings and a parking structure to complete the accommodation of the company's long-term growth potential. After a year of collaborative negotiations between the City and Facebook, a Development Agreement which includes annual in-lieu tax revenues, one-time payments for capital improvements, and many public benefits for the region was approved. Increased sales and property tax revenues are anticipated for Menlo Park and San Mateo County as a whole as employment at the new headquarters is increased.

As previously stated, the elimination of tax increment funding for redevelopment activities created a sizeable burden on the City's budget. In developing a resource allocation plan for 2012-13, many other factors had to be taken into consideration: the impacts of prior year budget reductions; the City's anticipated fiscal position at June 30, 2012; the current year economic environment; the availability and flexibility of the City's Utility Users Tax; a number of large capital projects under way; the State's structural budget crisis; any unmet operational needs; risk management issues; and the long-term effect of the City's revenue environment and expenditure decisions. All budgetary decisions needed to reflect the City's goal of a sustainable budget. A sustainable budget is one which provides for an appropriate level of services while maintaining adequate reserves over the long term - a period of years encompassing many economic cycles. It is important to note that producing a "balanced" budget for the year does not necessarily equate to a sustainable budget for the long term, and staff remains concerned that a prolonged reliance on short-term budget reduction strategies continues to stress the organization.

This budget includes the assumption of an increased Transient Occupancy Tax (TOT), rate effective January 1, 2013, which would require voter approval in November. With this budget adoption, Council will also consider the on-going impact of the Utility User Tax (UUT), and establish the rate of this tax for the next fiscal year. Beginning in fiscal year 2006-07, application of the UUT provided for opportunities for budget balancing not previously available in past budget-cutting cycles. Even when applied at the reduced rates for most of 2007-08, the tax allowed the Council to address issues and priorities that were previously not feasible due to curtailed staff resources and other budget challenges. It is appropriate for the Council to consider modulating the tax to make funds available for an approved level of General Fund programs and services without assessing a higher tax than is needed to sustain operations in the long term. The difficulty is determining the level of future needs and providing adequately for them.

The 2012-13 General Fund Budget

The Proposed Budget General Fund budget is balanced and reflects the following:

Revenues	\$40,189,668
Expenditures	\$39,929,328

The following table shows the City's General Fund actual performance for revenues and expenditures in the two previous fiscal years, as well as Adopted, Adjusted and Proposed budgets for the current year (2011-12). The Proposed Budget column of the

table reflects a summary of the General Fund budget in the City Manager’s proposed budget for 2012-13, presented as a public hearing item at the Council’s regular meeting on May 22nd, as adjusted by the Council at that meeting.

Consistent with previous budgetary presentations, new funding of the Downtown/EI Camino Real Specific Plan, initiated in December 2008, is shown “below the line” – funded from General Fund reserves accumulated in prior years.

General Fund Summary	2009-10 Actual	2010-11 Actual	2011-12 Adopted Budget	2011-12 Adjusted Budget	2012-13 Proposed Budget
Revenues:					
Property Taxes	12,603,742	12,811,324	13,021,000	13,021,000	13,658,000
Sales Tax	5,499,244	5,988,055	6,203,000	6,203,000	6,330,000
Transient Occupancy Tax	2,074,486	2,453,981	2,580,000	2,920,000	3,326,000
Utility Users Tax	1,148,454	1,122,940	1,249,000	1,135,900	1,180,500
Franchise Fees	1,508,666	1,677,016	1,743,000	1,768,000	1,873,500
Licenses & Permits	2,738,638	3,239,561	3,307,140	3,371,465	4,266,464
Intergovernmental	1,811,140	1,946,156	1,227,631	1,140,552	911,263
Fines	1,028,825	953,195	970,000	980,000	1,085,200
Interest and Rent Income	849,023	575,758	925,438	681,188	770,018
Charges for Services	5,210,044	5,246,251	5,425,265	6,030,515	6,370,600
Transfers & Other	744,583	730,506	707,125	589,559	418,123
Total Revenue	35,216,845	36,744,743	37,358,599	37,841,179	40,189,668
Expenditures:					
Personnel	26,960,643	26,845,801	26,929,726	27,380,264	28,612,146
Operating	4,726,739	4,614,493	5,292,416	5,359,878	5,709,452
Contract Services	2,677,924	2,250,245	2,758,657	3,547,700	3,143,402
Transfers Out	2,132,656	2,267,950	2,377,800	2,377,800	2,464,328
Total Expenditures	36,497,962	35,978,489	37,358,599	38,665,642	39,929,328
Net Operating Revenue	(1,281,117)	766,254	0	(824,463)	260,340
Add: Downtown/ECR Specific Plan Expenses				(225,980)	
Total draw on General Fund Reserves				(1,050,443)	

With total revenues of \$40.2 million and expenditures of \$39.9 million, the 2012-13 General Fund Budget as proposed shows a \$260,000 surplus. Note that the 2012-13 revenue forecast assumes an increase in the Hotel Tax (TOT) beginning January 1, 2013, and a continuation of the temporary UUT rate reduction (one percent on all utilities) through the entire fiscal year.

Budgets are staff’s best estimate of expenditures and revenues. In these uncertain economic times, and although every attempt has been made to avoid over-estimating the year’s revenues, the possibility that 2012-13 revenues will *not* be realized still exists. As always, the City’s budget will be carefully monitored and adjusted for actualities as the fiscal year unfolds.

General Fund Budget Highlights

Because of the slow and uncertain pace of economic growth, General Fund revenues were projected to grow only mildly in many revenue categories. However, the infusion of new revenues from Facebook (\$800,000 in 2012-13), a healthy growth in assessed property values, an assumed increase in the TOT rate, and increased revenues from the City's new recreation facilities, revenues are expected to grow 7.5 percent over last year's adopted budget. Even with decreases anticipated in several of the City's revenue categories over the prior year's adopted budget – Intergovernmental, Interest Income and Transfers In revenues will be over \$2.3 million higher than anticipated for the current fiscal year.

However, the 2012-13 proposed expenditures also reflect a similar increase over the prior year, due largely to the assimilation of activities previously funded from redevelopment revenues into the General Fund budget. Although some of the costs were absorbed by other funds where appropriate, non-personnel costs alone increased nearly \$300,000 for these activities. Four FTEs for the narcotics task force served to increase personnel costs for the General Fund by over \$800,000, and full funding for all permanent positions – with no allowance for vacancies – added an additional \$500,000. In some departments, (particularly Community Development and Community Services) increased operational costs are offset with increased revenues in the "Charges for Services" category.

Departmental expenditure budgets were also held at bay through heavy reliance on cost reduction strategies from previous fiscal years. In all departments, training budgets continue to be limited, during a time when preservation of technical skills within the organization is increasingly critical. A continued freeze on wages is also not a long-term solution, as the City needs a competitive compensation package in order to be able to attract and retain quality employees. Such strategies are neither sustainable nor conducive to a healthy organization that strives to deliver high quality services on a consistent basis. However, these strategies remain in place.

Last year, a separate "Comprehensive Planning Fund" was created for the explicit intent of financing long-range planning projects without impacting the costs of on-going programs and activities within the General Fund. This fund will eliminate the need for "below the line" presentation of the General Fund budget. The City faces significant operating outflows over the next several years for large, comprehensive planning projects. In reality, the new fund will be reported as a "sub-fund" of the General Fund for financial reporting purposes. But as a source of funds for long-range projects, prior year appropriations will be carried forward to subsequent fiscal years. Current plans to jump-start work on the Housing Element before the 2011-12 fiscal yearend will exacerbate the new fund's shortfall. However, Council has recently approved a Specific Plan Preparation fee that will serve to offset the (past) cost of that project, fueling other comprehensive planning projects going forward. Such fees, along with an annual allocation from development fees, should provide a source of on-going revenues to the Comprehensive Planning Fund.

It should be noted that the 2012-13 budget provides for a \$2.25 million transfer to the General Capital Improvement Fund, a four percent increase over the prior year's full transfer for infrastructure maintenance. This transfer was not increased over the past four years, and was frequently reduced to lessen the burden to the General Fund during the years most heavily impacted by the recession. This year, the Gas Tax Fund will contribute \$250,000 of this transfer, to support funding for the Street Resurfacing Project, and allow the General Fund to devote \$250,000 to Comprehensive Planning Projects.

Changes from City Manager's Proposed Budget Presented on May 22nd

As previously mentioned, staff was directed to adjust the City Manager's 2012-13 proposed budget to add back expenditures related to the continuation of the Belle Haven After School Program through the new fiscal year. The cost-reduction strategy providing this service through a "shared service" contract with the Boys and Girls Club was to have saved \$109,000 in 2012-13, and \$192,000 in subsequent fiscal years. However, given the surplus position of the General Fund as proposed, Council decided to retain the program so that other alternatives could be explored with the parents and the community utilizing this service. Adjustments in revenue for the program are reflected in increased charges for services (largely parental fees charged for the after school service). Savings in contract services (\$60,000 for the shared service contract) are offset by increased personnel and operating costs to continue the program. When posting these adjustments it was noted that the cost of a part-time position had been erroneously funded within other Community Services programs. When this was corrected, the total adjustment to the budgeted surplus was a reduction of \$35,650.

Recent budget amendments for the current fiscal year were also captured in the revised budget: the carry-forward fund balances reflect the additional \$714,000 commitment to the Housing Element Update project in the Comprehensive Planning Projects Fund (General Fund); and the loan to Human Investment Project (HIP) Housing for \$1.8 million served to decrease the Below Market Rate (BMR) Fund's unrestricted balance.

Changes to the General Fund Long-Term Forecast

At the May 22nd meeting, the Council considered not only the City Manager's Proposed Budget for the year, but also the General Fund 10-year Forecast. The 2012-13 proposed budget was used as the "base year" for the 10-year Forecast, so as a result of the Council-directed changes to General Fund revenues and expenditures indicated above for the 2012-13 fiscal year, the 10-year Forecast was also revised (Attachment E). The decrease in the 2012-13 budgeted surplus caused a similar decrease in any net revenue forecast in future years.

The long-term forecast for the General Fund presented with the May 22nd staff report reflects expenditure growth that coincides with the projected pace of future General Fund revenues – a delicate balance that does not indicate additional resources for unanticipated changes. If, due to further economic downturns or unanticipated expenditure increases, a structural imbalance is created, future deficit spending may be mitigated to the extent that the City is able to grow its revenues through business

development or other measures. If revenues are not increased, the City may face continued challenges of unfunded (or under-funded) needs that cannot be well quantified in the 10-year forecast. Further reductions in the ongoing costs of municipal services would be required, with a potential decline in the level of services currently provided.

Utility Users' Tax (UUT) Rate Considerations

As previously mentioned, Council first reduced the UUT to a rate of one percent rate for all utilities after examining the City's long-term forecast in their considerations of the 2007-08 fiscal year budget. The reduced rates have been reconfirmed (for twelve months) with each subsequent fiscal year budget. Council has expressed an unwillingness to adjust the UUT and therefore, the City Council will need to adopt a resolution to effect a consecutive temporary reduction in Utility Users' Tax rates, to continue the current one percent tax rate on all utilities as of October 1, 2012 (Attachment C).

At the current one percent rate, approximately 64.7 percent of the City's UUT revenue is collected on electric, gas and water usage, and 35.3 percent is collected on telecommunication and cable utilities, for annual receipts of nearly \$1.2 million. At the maximum rates established by the ordinance, the \$12,000 cap benefits a greater number of large utility users, affecting net collections considerably. Collections under the maximum rates would amount to around \$3.6 million. Note that the cost of utilities, large-scale changes in utility usage and the weather can significantly impact UUT revenues.

Temporary tax rate reductions for a period of up to twelve months can be implemented with the specific finding provided in the UUT ordinance:

The temporary tax reduction shall not adversely affect the City's ability to meet its financial obligations as contemplated in its current or its proposed budget."

Such a finding is included in the Resolution Temporarily Reducing the Utility Users, Tax Rate Effective October 1, 2012, Attachment C to this report. If the Council does not establish a continuation of the tax at some reduced rate, the original tax percentages would be automatically reinstated as of October 1, 2012. In order to allow staff to give affected utility service suppliers adequate notification of any change in the tax rate, Council must make this determination by June 30th.

Also, the Utility Users' Tax Ordinance requires the City Council to review the need for the tax not later than June 30, 2008, and every two years thereafter. As a part of the 2012-13 budget process, the Council must therefore, by a two thirds (2/3) vote, make findings that the UUT is necessary for the financial health of the City (Attachment D), or the tax will be discontinued as of December 31, 2012.

The Capital Fund Budget

The City's 5-Year Capital Improvement Plan (CIP), in use for the past three years, provides a useful resource allocation tool, increasing clarity regarding project status by distinguishing between funded projects, proposed projects, planned projects and unfunded projects. Having a multi-year plan for capital spending allows the City to optimize its resources through improved long-term planning for major undertakings aligned with Council goals. A yearly update of the Capital Improvement Plan replaces the previous (annual) project prioritization and allows for a more effective process for scheduling and funding the City's major projects. In addition, because capital projects are planned over the longer-term, the impact of the redevelopment agency dissolution could quickly be analyzed. Planned projects which could not be initiated due to the dissolution amounted to over \$7.4 million (Staff report #12-015, January 24, 2012).

Projects recommended in the 5-Year CIP for fiscal year 2012-13 include 21 new capital and infrastructure maintenance projects for a total of \$2.4 million. This expenditure is slightly more than the proposed transfer from the General Fund of \$2.25 million, even though the 2012-13 capital budget does not include the large, bi-annual street resurfacing project. The General Fund CIP has an uncommitted fund balance – projected to be over \$4.6 million at the end of the 2012-13 fiscal year – with which to absorb year-to-year fluctuations in spending. The absence of redevelopment funding will add an additional burden to the General Fund CIP and emphasizes the need for an appropriate amount of annual funding to maintain the City's infrastructure.

Each of the 2012-13 capital projects is described in full, along with budget amounts and funding sources, at the end of the 2012-13 Budget document starting on page 171.

Other Funds

The elimination of redevelopment agencies as of January 31, 2012 had an immediate and severe impact on the City's ability to provide services in the Las Pulgas Community Development Project Area. Assets in all the City's redevelopment funds, including the new funds created to account for the redevelopment services and public improvement agreements between the Agency and the City, were frozen. Activities of the Agency for the truncated fiscal period were limited to operations of the Agency through January 31, 2012, and payments for obligations of the agency prior to July 1, 2011. Tax increment for the 2011-12 fiscal year was placed in the County's RPTTF (Redevelopment Property Tax Trust Fund) for the former agency, and utilized to pay these obligations, including negotiated and statutory pass-through payments, the County Controller's administrative costs, and the City's administrative allowance for serving as Successor Agency. Remaining monies were to be distributed to local agencies and school entities as regular property taxes.

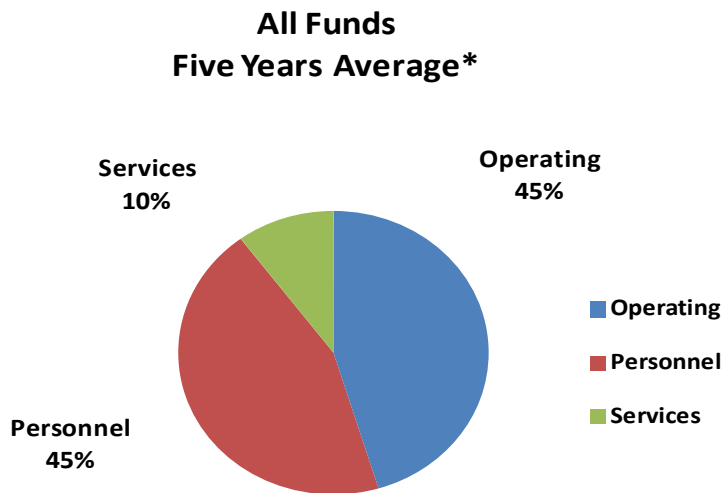
Although the calculations on the allocation of remaining tax increment revenues is still underway, the City will receive an estimated \$140,000 of additional regular 2011-12 property tax revenues as a result of the dissolution of the redevelopment agency. This was largely anticipated at mid-year, and incorporated into the analysis of potential

funding scenarios for continuation of the City’s redevelopment activities. Options for the use of “other funding sources” for these activities were also examined at mid-year and in the development of the 2012-13 budget; however, few such options are sustainable in the long-term. One-time revenues will be used to fund specific developmental impacts, but the fact remains that the demands for capital funding will be high in future years.

Total Proposed Budget (All Funds)

In total, the Budget Report identifies nearly \$67.6 million of expenditure budgets (excluding transfers to other funds) for all funds combined. Of this amount, nearly \$33.1 million is appropriated for the fiscal year’s personnel costs. It is well recognized that many local government services are labor-intensive, and personnel costs comprise the greater part of most municipal spending. On page 11 of the 2012-13 Budget document, the pie chart, “General Fund Expenditures by Category” shows that personnel costs make up 71.7 percent of the General Fund budget. But this is the largest operating fund in the City, and does not provide funding for large capital projects. To provide a better approximation of the percentage of personnel costs of all City budgets, staff used the average of actual expenditures for the past five years (including estimates of 2011-12 spending) to illustrate the typical percentage of personnel costs across all funds in Menlo Park’s annual budget.

Category	2007-08 Actual	2008-09 Actual	2009-10 Actual	2010-11 Actual	2011-12 Estimate	Average	Average %
Operating	33,693,754	24,394,311	29,166,954	43,155,005	28,653,599	31,812,725	45%
Personnel	30,463,588	32,561,701	32,156,117	32,330,749	31,726,816	31,847,794	45%
Services	6,674,500	7,110,105	7,417,420	6,931,344	6,346,427	6,895,959	10%
Total Expenditures	70,831,842	64,066,117	68,740,491	82,417,098	66,726,842	70,556,478	100%



*Actual 2008,2009,2010, & 2011, Estimate 2012

All revenues and expenditures are reflected in total in the fund summary pages of the 2012-13 Budget document beginning on page 165. In addition, an update to the Schedule of Fund Balances, 2001-2011 is attached as Attachment F to this report. The fund balances may not be the same as shown in the Budget Report due to restrictions on certain fund assets.

The Budget Document

The changes to the City Manager's Proposed 2012-13 Budget Report as presented to the Council at the public hearing of May 22nd resulted in changes to both the General Fund revenue or expenditure appropriations as previously described. Other adjustments were the result of ongoing review of the document.

Several status descriptions for select performance measure results have also been updated or clarified. Results for these performance results indicate staff exceeded the measure for 89 indicators; met the measure for 91 indicators; did not meet the measure for 44 indicators; nine performance results were not applicable this year due to program changes or work cycles; and thirteen results were not measured this year. Overall, of the 224 "measured and applicable results" departments achieved or exceeded 180 for a positive result percentage of 80.4 percent.

The 2012-13 Budget Report transmittal letter is included as Attachment F to this report, and prepared with the assumption that the budget will be officially adopted by the City Council at its June 12th meeting. The report contains information about the entire City government's operations. The Table of Contents is helpful in orienting the reader to other sections of the document. In the back of the report is information about the City's estimated fund balances and the planned Capital Improvements projects for 2012-13.

Distributed with the June 12th Council packet, the report is also available on-line at http://www.menlopark.org/departments/fin/2012_13_AdoptedBudget.pdf.

Appropriations Limit

The City's appropriation limit for this budget cycle has been prepared in accordance with uniform guidelines. The appropriations limit imposed by state regulations creates a restriction on the amount of "proceeds of taxes" which can be appropriated by the City in any fiscal year. The limit is based on actual appropriations during the 1978-79 fiscal year, as increased each year using growth of population and inflation indexes. The appropriation of tax proceeds limit of \$45,896,524 for 2012-13 is significantly greater than the \$29,018,822 of proposed City expenditures that is subject to the limit for this year. Therefore, the City is well within its appropriation limit.

Summary

Over recent budget cycles, the City has attempted to keep spending levels in line with revenues. In addition, staff has endeavored to eliminate one-time revenues and expenditures from the General Fund operating budget so as to gain fiscal consistency

and comparability from year-to-year. The following table summarizes the General Fund activity for the past five fiscal years compared to the 2012-13 budget.

GENERAL FUND	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Actual	FY 2011-12 Estimated	FY 2012-13 Proposed
Revenues	37.87	34.94	34.52	36.04	37.55	39.80
Expenditures	32.59	34.50	34.36	33.70	34.36	37.46
Net Transfers	(13.65)	(1.01)	(1.44)	(8.16)	(1.82)	(2.08)
Net Revenue	(8.37)	(0.57)	(1.28)	(5.82)	1.37	0.26

It should be noted that expenditures included various extraordinary items: in 2007-08 transfers included \$9.4 million to fund the City's prior years' retiree medical benefits liability, as well as \$2.6 million to fund the City's contribution to the construction of the Menlo-Atherton Performing Arts Center. Expenditures in 2010-11 included the payoff of the CalPERS Safety Side fund, of which \$6.59 million was drawn from General Fund reserves. The transfer from the General Fund to maintain the City's infrastructure has also been modified throughout the recession: this transfer was nearly \$2.1 million in 2007-08, but was reduced in both 2008-09 (to \$1.36 million) and 2009-10 (to \$1.92 million) as a result of the mid-year budget analyses, to reduce the General Fund deficit in those years. In the 2012-13 budget, the transfer to the General CIP Fund is \$2,249,728.

Despite the uncertain economic environment, an extension of the current reduced UUT rates is reflected as a measured approach towards determining the optimal level of tax needed for ongoing fiscal stability.

IMPACT ON CITY RESOURCES

The General Fund budget for the 2012-13 fiscal year calls for projected revenues of \$40,189,668 and expenditures of \$39,929,328. The General Fund balance is estimated to be \$20.2 million at the end of fiscal year 2012-13. Estimated increases or decreases to other fund balances are shown on pages 168 through 170 of the 2012-13 Budget document.

POLICY ISSUES

The proposed action is consistent with existing policy and in keeping with the goal of a sustainable General Fund operating budget.


 Alex D. McIntyre
 City Manager


 Carol Augustine
 Finance Director

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 adopting the Fiscal Year 2012-13 Budget and Capital Improvement Program
- B. Resolution Establishing Appropriations Limit for Fiscal Year 2012-13
- C. Resolution Temporarily Reducing the Utility Users Tax Rate Effective October 1, 2012
- D. Resolution Determining that the Utility Users Tax is Necessary for the Financial Health of the City
- E. Revised 10-year Forecast
- F. Revised Schedule of Fund Balances, 2002-2011
- G. Transmittal Letter (pages 1- 8) of the 2012-13 Budget Report

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO
PARK ADOPTING THE BUDGET FOR FISCAL YEAR 2011-12 AND
ADOPTING THE CAPITAL IMPROVEMENT PROGRAM FOR THE
FISCAL YEAR**

WHEREAS, the City of Menlo Park, acting by and through its City Council, having considered the proposed budget document dated June 2012 and related written and oral information at the meeting held June 12, 2012, and the City Council having been fully advised in the matter and good cause appearing therefore.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Menlo Park that the City Council does hereby adopt the budget for the fiscal year 2012-13 as set forth in the proposed budget presented to the City Council; and

BE IT FURTHER RESOLVED by the City Council of the City of Menlo Park that the City Council does hereby adopt the Capital Improvement Program for the fiscal year as set forth in the draft budget presented to the City Council.

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 twelfth day of June, 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 twelfth day of June, 2012.

Margaret S. Roberts, MMC
City Clerk

RESOLUTION NO.

**RESOLUTION OF THE CITY OF MENLO PARK ESTABLISHING
APPROPRIATIONS LIMIT FOR FISCAL YEAR 2012-13**

WHEREAS, Article XIII B of the Constitution of the State of California places various limitations on the City's powers of appropriation; and

WHEREAS, Division 9 (commencing with Section 7900) of the Government Code implements said Article XIII B and requires that each local jurisdiction shall, by resolution, establish its appropriations limit for the following year; and

WHEREAS, the City of Menlo Park population percentage change over the prior year is 0.99 percent and the California per capita personal income change is 3.77 percent, both factors in calculating the appropriations limit.

NOW THEREFORE, BE IT RESOLVED that the City Council of Menlo Park at its regular meeting of June 12, 2012 hereby establishes the appropriations limit as the amount of \$45,896,524 for Fiscal Year 2012-13, calculated in accordance with the provisions of Division 9 (commencing with Section 7900) of the California Government Code.

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 twelfth day of June, 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 twelfth day of June, 2012.

Margaret S. Roberts, MMC
City Clerk

RESOLUTION NO.

**RESOLUTION OF THE CITY OF MENLO PARK ESTABLISHING A
TEMPORARY TAX PERCENTAGE REDUCTION IN THE UTILITY
USERS TAX PERSUANT TO SECTION 3.14.130 OF THE CITY OF
MENLO PARK MUNICIPAL CODE**

WHEREAS, Ordinance 950 of the City Council of the City of Menlo Park Adopting a Utility Users Tax became effective upon approval by a majority of voters at the General Election of November 7, 2006; and

WHEREAS, Ordinance 950 established Chapter 3.14 of the City of Menlo Park Municipal Code, this chapter known as the "Utility Users Tax Ordinance"; and

WHEREAS, the Utility Users Tax Ordinance Section 3.14.130 allows the City Council to enact a Temporary Tax Percentage Reduction for a period of no more than twelve (12) months; provided adequate written notice is given to all affected service suppliers; and

WHEREAS, the City Council established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2007-08, effective October 1, 2007; and

WHEREAS, the City Council established a temporary tax reduction in consideration of the adopted budget for the fiscal year 2008-09, effective October 1, 2008; and

WHEREAS, the City Council re-established the temporary tax reduction in consideration of the adopted budget for the fiscal year 2009-10, effective October 1, 2009; and

WHEREAS, the City Council re-established the temporary tax reduction in consideration of the adopted budget for the fiscal year 2010-11, effective October 1, 2010; and

WHEREAS, the City Council re-established the temporary tax reduction in consideration of the adopted budget for the fiscal year 2011-12, effective October 1, 2011; and

WHEREAS, the City Council is not prohibited from adopting consecutive temporary tax percentage reductions as provided by Section 3.14.130 of the Utility Users Tax Ordinance; and

WHEREAS, the City Council now finds that a consecutive temporary tax reduction shall not adversely affect the City's ability to meet its financial obligations as contemplated in the budget for the fiscal year 2012-13, considered and adopted at its regular meeting of June 12, 2012.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Menlo Park at its regular meeting of June 12, 2012 hereby establishes a temporary reduction in the Utility Users Tax rate, maintaining the current reduced rate of one percent (1.0%) for taxes imposed by sections 3.14.040 through 3.14.070 for a period of no more than twelve (12) months, effective October 1, 2012. No other provisions of the Utility Users Tax Ordinance are affected by this resolution. Nothing herein shall preclude the City Council from modifying the tax rate set herein during said twelve month period.

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 twelfth day of June, 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 twelfth day of June, 2012.

Margaret S. Roberts, MMC
City Clerk

RESOLUTION NO.

RESOLUTION OF THE CITY OF MENLO PARK DETERMINING THAT THE UTILITY USERS TAX, PERSUANT TO SECTION 3.14 OF THE CITY OF MENLO PARK MUNICIPAL CODE, IS NECESSARY FOR THE FINANCIAL HEALTH OF THE CITY

WHEREAS, Ordinance 950 of the City Council of the City of Menlo Park Adopting a Utility Users Tax became effective upon approval by a majority of voters at the General Election of November 7, 2006; and

WHEREAS, Ordinance 950 established Chapter 3.14 of the City of Menlo Park Municipal Code, this chapter known as the "Utility Users Tax Ordinance"; and

WHEREAS, the Utility Users Tax Ordinance Section 3.14.310 requires the City Council to review the need for the tax not later than June 30, 2008, and every two years thereafter by a two-thirds vote; and

WHEREAS, the City Council finds that the Utility users tax is necessary for the financial health of the City pursuant to the Utility Users Tax Ordinance Section 3.14.310.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Menlo Park at its regular meeting of June 12, 2012 hereby finds and determines that the Utility Users Tax imposed by Section 3.14 of the City of Menlo Park Municipal Code is necessary for the financial health of the City.

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 twelfth day of June, 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 twelfth day of June, 2012.

Margaret S. Roberts, MMC
City Clerk

City of Menlo Park
 General Fund 10-Year Projection ⁽¹⁾

Revenue Categories	Scenario	Adjusted Budget 2012	Proposed Budget 2013	Forecast 2014	Forecast 2015	Forecast 2016	Forecast 2017	Forecast 2018	Forecast 2019	Forecast 2020	Forecast 2021	Forecast 2022	Forecast 2023
Property Taxes	Most Likely	\$13,021,000 (2)	\$13,658,000 (2)	\$14,231,676 (2)	\$14,833,746	\$15,427,096	\$16,044,180	\$16,685,947	\$17,353,385	\$18,047,520	\$18,769,421	\$19,520,198	\$20,301,006
Sales Tax	Most Likely	6,203,000 (3)	6,330,000 (3)	6,492,200	6,751,888	7,021,964	7,302,842	7,594,956	7,898,754	8,214,704	8,543,292	8,885,024	9,240,425
Transient Occupancy Tax	Most Likely	2,920,000 (4)	3,326,000 (4)	3,758,380	3,908,715	4,065,063	4,227,666	4,396,773	4,572,644	4,755,549	4,945,771	5,143,602	5,349,346
Utility Users' Tax	Most Likely	1,135,900 (5)	1,180,500	1,226,760	1,274,870	1,324,905	1,376,941	1,431,059	1,487,341	1,545,875	1,606,749	1,670,059	1,735,902
Franchise Fees	Most Likely	1,768,000	1,873,500	1,948,440	2,026,378	2,107,433	2,191,730	2,279,399	2,370,575	2,465,398	2,564,014	2,666,575	2,773,238
Licenses and Permits	(6) Most Likely	3,371,465	4,266,465	4,405,127	4,549,322	4,699,273	4,855,209	5,117,074	5,285,748	5,461,154	5,643,562	5,833,252	6,130,064
Intergovernmental Revenue	Most Likely	1,140,552 (7)	911,263	947,714	985,622	1,025,047	1,066,049	1,108,691	1,153,038	1,199,160	1,247,126	1,297,011	1,348,892
Fines & Forfeitures	Most Likely	980,000	1,085,200	1,128,608	1,173,752	1,220,702	1,269,530	1,320,311	1,373,124	1,428,049	1,485,171	1,544,578	1,606,361
Interest & Rent Income	Most Likely (8)	681,188 (8)	770,018 (8)	852,719 (8)	946,153 (8)	1,051,863 (8)	1,171,621	1,220,885	1,272,121	1,325,406	1,380,822	1,438,455	1,498,393
Charges for Services	(9) Most Likely	6,030,515 (9)	6,370,599 (9)	6,289,015	6,528,799	6,778,116	7,037,346	7,306,886	7,587,147	7,878,559	8,181,567	8,496,635	8,824,244
Donations	Most Likely	29,050	29,050	30,212	31,420	32,677	33,984	35,344	36,758	38,228	39,757	41,347	43,001
Other Financing Sources	Most Likely (10)	560,509	389,073	404,636	420,821	437,654	455,160	473,367	492,301	511,993	532,473	553,772	575,923
Total Revenues		\$ 37,841,179	\$ 40,189,668	\$ 41,715,486	\$ 43,431,487	\$ 45,191,792	\$ 47,032,257	\$ 48,970,691	\$ 50,882,935	\$ 52,871,595	\$ 54,939,727	\$ 57,090,508	\$ 59,426,794
Expenditure Categories													
510 - Salaries and Wages	Most Likely (11)	\$19,928,789 (11)	\$20,615,888 (11)	\$21,234,364	\$22,083,739	\$22,967,088	\$23,885,772	\$24,841,203	\$25,834,851	\$26,868,245	\$27,942,975	\$29,060,694	\$30,223,121
520 - Benefits	Most Likely (12)	7,451,483 (12)	7,996,259 (12)	8,766,298 (12)	9,081,885	9,445,161	9,822,967	10,215,886	10,624,521	11,049,502	11,491,482	11,951,141	12,429,187
530 - Operating Expense	Most Likely (13)	2,733,665	2,993,836	3,113,590	3,238,133	3,367,658	3,502,365	3,642,459	3,788,158	3,939,684	4,097,271	4,261,162	4,431,609
540 - Utilities	Most Likely	1,097,935	1,152,016	1,198,097	1,246,020	1,295,861	1,347,696	1,401,604	1,457,668	1,515,974	1,576,613	1,639,678	1,705,265
550 - Services	Most Likely (13)	3,782,460 (13)	3,143,402	3,127,685	3,252,792	3,382,904	3,518,220	3,658,949	3,805,307	3,957,519	4,115,820	4,280,453	4,451,671
560 - Fixed Assets & Capital Outlay	Most Likely (13)	287,312	278,612	289,756	301,347	313,401	325,937	338,974	352,533	366,634	381,300	396,552	412,414
570 - Travel	Most Likely	51,106	55,655	57,881	60,196	62,604	65,108	67,713	70,421	73,238	76,168	79,214	82,383
580 - Repairs & Maintenance	Most Likely (13)	923,597 (13)	866,878	901,553	937,615	975,120	1,014,125	1,054,690	1,096,877	1,140,752	1,186,382	1,233,838	1,283,191
590 - Special Projects Expenditures	Most Likely (13)	257,478 (13)	362,454	376,952	392,030	407,712	424,020	440,981	458,620	476,965	496,043	515,885	536,521
590 - Transfers Out	Most Likely	2,377,800	2,464,328	2,562,901	2,665,417	2,772,034	2,882,915	2,998,232	3,118,161	3,242,888	3,372,603	3,507,507	3,647,808
Total Expenditures		\$38,891,625	\$39,929,328	\$41,629,078	\$43,259,176	\$44,989,543	\$46,789,125	\$48,660,690	\$50,607,117	\$52,631,402	\$54,736,658	\$56,926,124	\$59,203,169
Total Impact to Fund Balance		(\$1,050,446)	\$ 260,340	\$86,408	\$172,311	\$202,249	\$243,133	\$310,001	\$275,818	\$240,193	\$203,068	\$164,384	\$223,624
Encumbrances and Reappropriations	(13)	419,900											
Downtown El Camino Specific Plan	(13)	225,980											
Net Operating Revenue		(\$404,566)	\$260,340	\$86,408	\$172,311	\$202,249	\$243,133	\$310,001	\$275,818	\$240,193	\$203,068	\$164,384	\$223,624

Notes to 10-year Forecast:

- (1) Revenues and expenditures are generally anticipated to grow by inflation of 4% unless otherwise indicated.
- (2) Property Tax increases 4.9% in 2012-13 and 4.2% by 2014-15; Facebook tenant improvements complete by 2014-15
- (3) Sales Tax to grow 2% in 2012-13; 2.5% 2013-14; 4% growth thereafter.
- (4) Assumes TOT rate increase January 2013 from 10% to 12%.
- (5) Assumes 1% UUT tax rate on all utilities; assumes no change on UUT tax cap payers.
- (6) Licenses and permits increase due to annual payment from Facebook: 2013-2017 (\$800,000); 2018-2022 (\$900,000); 2023-2027 (\$1,000,000) CPI thereafter.
- (7) Intergovernmental revenues to decrease in 2012-13, San Carlos Dispatch contract expired November 2011.
- (8) Portfolio earnings recover slowly with yields growing by 2016-17.
- (9) Charges for Services increase 5% in 2012-13; Community Services increased utilization of City facilities; planning fees adjusted downward by 2013-14. Includes \$250,000 from County for administering Successor Agency and does not assume 4% inflation growth.
- (10) Other Financing Sources decrease due to RDA dissolution.
- (11) Reduction in dispatch; San Carlos dispatch contract expired November 2011; Salaries & Wages up 3% in 2013-14.
- (12) CalPERS rate increases assumed through 2015; labor concessions included.
- (13) Encumbrance carryover included \$419,900 and \$225,980 for Specific Plan; but removed from forecast calculation. Includes full cost of San Francisquito Creek JPA annual cost (\$108,000 in 2012-13)

Does not assume:

- Sale of property or other General Fund assets
- Menlo Gateway development revenue
- Acquisition of additional parks and or facilities

Schedule of Fund Balances

ATTACHMENT F

	6/30/2013 (Proposed)	6/30/2012 (Estimated)	6/30/2011	6/30/2010	6/30/2009	6/30/2008	6/30/2007	6/30/2006	6/30/2005	6/30/2004	6/30/2003	6/30/2002	6/30/2001
General Fund	20,233,781	20,381,246	19,605,935	23,831,011	24,744,493	26,603,074	35,121,304	33,613,206	29,149,898	30,153,559	29,289,927	27,842,190	25,470,496
Internal Service Funds													
101 Workers Compensation	1,251,066	1,345,639	1,138,745	1,415,711	1,337,642	901,967	409,059	-	-	-	-	-	-
102 Liability/Fire Insurance	151,737	(17,663)	109,056	(101,679)	(299,254)	(10,261)	(123,083)	-	-	-	-	-	-
103 Other Post Employment Benefits	34,828	34,828	(27,900)	(1,544)	(1,313)	160,409	473,897	-	-	-	-	-	-
507 Vehicle Replacement Fund	347,479	554,593	638,211	608,895	84,350	107,502	136,140	-	-	-	-	-	-
	1,785,110	1,917,397	1,858,112	1,921,383	1,121,425	1,159,617	896,013	-	-	-	-	-	-
852&854 Community Development Agency	0	0	43,138	20,491,316	22,216,042	20,498,461	17,371,387	15,427,842	15,642,527	12,576,777	12,605,830	14,174,377	19,460,337
837 Community Dev Block Grant	698,970	698,970	698,971	699,741	602,704	455,067	68,013	9,683	731	566	-	-	-
833 Redevelopment Services Agreement	0	0	9,910,456										
859 Public Improvements Grant Fund	0	0	7,833,014										
835 Highway Users Tax	3,257,177	2,781,109	2,074,556	1,999,033	1,411,919	1,228,501	1,556,580	1,649,179	1,004,645	747,214	799,076	534,332	
842 Traffic Congestion Relief	492,485	492,485	487,985	756,383	603,778	415,852	392,330	142,543	1,208	89,903	-	346,515	1,523,331
836 Federal Revenue Sharing	29,678	27,678	25,359	58,529	63,382	68,580	62,211	52,531	73,501	75,226	71,249	65,344	145,181
839 Sidewalk Assessment	272,380	282,159	534,109	501,647	531,580	387,200	504,314	423,113	340,001	198,087	134,867	95,861	58,836
838 Landscape Tree Assessment	33,887	98,224	167,550	258,837	272,820	290,105	95,654	226,816	411,946	507,500	479,383	412,800	73,480
754 Bedwell Bayfront Park Landfill	3,376,431	2,945,614	2,492,160	1,941,854	1,549,600	1,126,110	858,832	582,552	350,203	156,691	-	-	310,254
832 Below Market Rate Housing	8,113,927	8,176,927	10,446,150	10,588,890	11,344,082	8,534,592	7,854,813	4,662,381	4,679,802	4,594,069	4,353,231	4,421,518	-
834 County Transportation Tax	595,754	885,803	1,036,246	1,606,065	1,602,733	1,951,700	1,668,963	1,588,060	1,603,227	1,521,334	1,597,169	1,790,854	4,235,611
452 Public Library	69,344	90,429	104,560	93,551	113,149	146,002	138,435	120,743	108,959	96,730	81,951	67,626	1,839,257
Literacy Grants	45,760	45,760	33,730	35,187	33,474	10,206	20,445	16,425	20,572	32,904	41,748	36,555	97,559
705 Narcotic Seizure	4,000	39,090	35,861	37,196	21,888	17,014	14,205	8,772	10,025	6,610	4,128	7,576	55,066
710 Traffic Impact Fees	2,035,020	2,969,057	1,852,968	611,326	773,635	1,009,640	751,859	477,291	519,592	615,930	1,525,741	1,238,699	5,138
758 Downtown Parking Permits	2,806,200	2,608,344	3,077,572	2,831,914	2,680,568	2,383,034	2,051,964	1,453,384	1,641,182	1,378,146	1,092,487	780,753	1,772,750
713 Storm Drainage Fees	190,601	185,601	184,451	258,670	253,843	234,247	182,778	14,081	80	71	-	91,231	495,276
753 Solid Waste Service	648,535	388,659	(77,201)	351,112	378,092	543,208	207,130	447,377	493,161	641,948	814,786	891,369	133,730
434 Bay Area Air Quality Mngmt	2,619	2,619	2,620	2,574	48,264	46,230	45,840	47,861	46,923	43,682	4,577	3,190	968,287
841 Storm Water Mngmt.	99,259	129,411	312,738	321,687	333,961	407,477	615,942	476,999	559,136	632,006	738,851	965,025	-
420 Peninsula Partnership	12,206	8,698	(20,139)	(57,654)	(14,010)	16,165	24,298	31,690	60,212	40,858	74,021	20,845	851,990
706 Supplemental Law Enforce Svs	(29,783)	(4,843)	29,871	4,102	(7,362)	15,986	136,068	113,616	111,512	114,320	91,816	137,661	51,449
N/A Local Law Enforce Block Grant				-	-	-	-	-	2,213	11,465	10,300	7,134	167,681
N/A California Law Enforcement Equip				-	-	-	-	-	-	-	-	124,819	-
843 Construction Impact Fees	2,574,200	2,150,318	2,138,216	2,838,543	2,457,891	2,158,579	1,410,213	-	-	-	-	-	-
809 Bedwell Bayfront Park Maintenance	590,373	697,902	846,244	1,037,124	1,201,858	1,344,994	1,431,295	1,491,526	1,646,015	1,696,361	1,756,965	1,939,274	
801 Recreation In-Lieu	966,233	786,233	3,589,245	3,911,198	3,595,277	3,406,195	1,881,039	290,517	111,758	57,146	17,432	-	1,777,783
506 Sharon Hills Park	77,245	90,245	102,246	112,961	121,983	131,490	136,631	142,726	160,556	168,595	167,360	173,492	1,208,978
505 Vintage Oak Landscape	81,474	103,314	116,077	130,846	140,991	149,381	154,683	161,389	170,000	177,331	188,546	197,063	176,841
Miscellaneous Trust	813,013	813,013	1,000,330	835,081	974,859	1,057,194	1,208,818	1,353,202	1,718,208	1,796,322	1,334,606	1,567,274	208,883
Total Special Revenue Fund	27,856,988	27,492,819	49,079,083	52,257,713	53,307,001	48,033,210	40,844,740	31,412,299	31,487,895	27,977,792	27,986,120	30,228,129	37,111,192
Debt Service Funds													
872 Community Development Agency	9,269,618	9,269,618	9,149,620	9,135,499	9,073,768	8,349,895	8,690,632	6,849,552	-	-	-	-	-
874 Library Bond	1,001,490	925,690	928,390	893,496	817,665	725,753	690,315	631,671	611,715	592,548	606,813	589,283	508,081
875 Recreation GO Bond - 2002	930,691	925,759	2,584,659	2,601,099	2,292,567	1,683,424	1,200,558	885,125	675,692	549,507	401,338	-	-
Total Debt Service Funds	11,201,799	11,121,067	12,662,669	12,630,094	12,184,000	10,759,072	10,581,505	8,366,348	1,287,407	1,142,055	1,008,151	589,283	508,081
Capital Projects													
853 Library Addition	138,900	193,900	212,389	241,475	351,386	400,941	388,094	412,568	445,111	511,058	594,494	580,514	560,470
845 Measure T 2002 GO Bond	1,329,281	1,329,281	3,126,575	8,014,906	915,030	1,193,794	1,385,434	1,996,118	6,412,618	10,333,286	13,014,389	13,397,527	-
851 Capital Improvement General	8,260,571	8,674,127	7,835,127	8,910,170	8,928,962	10,477,685	7,199,976	5,558,135	8,835,858	8,277,240	8,579,794	9,743,914	9,694,437
856 Community Dev Agency - 1992	0	0	43,137	42,954	42,306	40,698	38,395	36,584	35,374	34,622	39,943	40,970	374,194
858 Community Dev Agency - 2000	0	0	(2)	7,389,650	7,651,943	7,687,365	7,782,425	7,865,919	12,000,548	17,226,144	22,075,475	28,547,908	35,587,315
863 Redevelopment Services CIP	0	0	6,054,918										
Total Capital Projects	9,728,752	10,197,308	17,272,144	24,599,155	17,889,627	19,800,483	16,794,324	15,869,324	27,729,509	36,382,350	44,304,095	52,310,833	46,216,416
Water Funds *	12,067,826	16,178,050	16,373,194	17,088,304	17,295,167	16,600,729	22,953,126	22,161,930	21,404,316	20,707,075	20,594,182	19,765,977	19,952,120
*Water Funds reflect net assets beginning in 2008.	82,874,256	87,287,887	116,851,137	132,327,660	126,541,713	122,956,185	127,191,012	111,423,107	111,059,025	116,362,831	123,182,475	130,736,412	129,258,305

June 2012

Honorable Mayor Keith and City Council Members:

The 2012-13 Adopted Budget, as revised by the City Council, is a \$65 million spending plan for the City of Menlo Park. This Budget provides a small surplus while funding key community and Council priorities and maintaining core service levels; however, it sacrifices some initiatives and utilizes short term strategies that, after four years of use, remain a stress on the organization.

The Adopted Budget is the result of a remarkable effort by City staff, elected officials and residents working together to create a spending plan reflecting our community's values and priorities. While this process is never easy, the collaborative effort produces better results and staff looks forward to seeking improvements to the process in the future.

This 2012-13 Budget is my first as your City Manager, and, although the process was well underway when I came on board, I fully support the results we have been able to achieve. Despite the impacts of a struggling economy coupled with the elimination of redevelopment agencies by the State, for now, the City has succeeded in keeping operating costs at bay and initiating positive measures to spark an improved and healthier local economy resulting in expanded future revenue sources.

BACKGROUND & PHILOSOPHY

The economic conditions that plunged our nation into the worst recession since the Great Depression have forced local governments to shift to a new paradigm of delivering public services. While the signs of an economic recovery are beginning to emerge, governments at all levels still struggle to adapt to the new climate of slower revenue growth, critical infrastructure needs, rising costs to provide basic services, and, in California especially, a state budget crisis that continues to push the costs of service provision to the local level. And still, we endure.

Amid these pressures, economic conditions can also be a catalyst for positive change. We are continually motivated by the current economic forces to respond to changing community needs, finding the best value necessary to maintain the services and meet the expectations of our current and future customers. As you know well, this is a balancing act between those who argue for "fewer services" and those who see the value in continued investment. We believe the attached budget, as it reflects a spending plan for the next year, accomplishes both – securing the immediate needs of the community and addressing the long term needs for sustainable services. This budget strives to maintain the quality of life our residents have come to enjoy and expect.

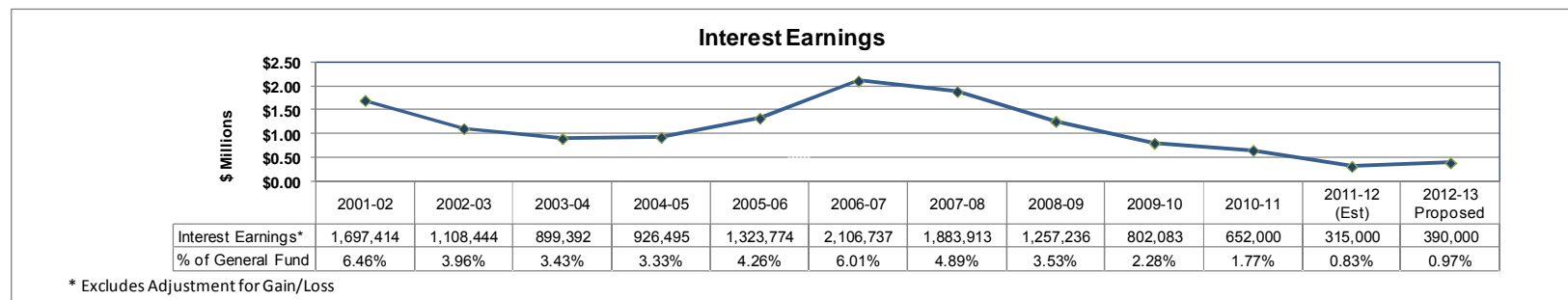
Despite the many challenges, our financial condition remains strong, in part, because of our ability to creatively manage this balancing act. Although difficult, recent Council decisions have helped us ease through the economic crisis and continue our progress toward a sustainable budget for the long term:

- Elimination of positions (15 since 2009) and City services
- Paid off Safety Side retirement fund
- Increased employee contributions to health care
- Implemented a two-tier retirement program
- Recovered greater cost in all departments
- Negotiated wage controls with labor groups

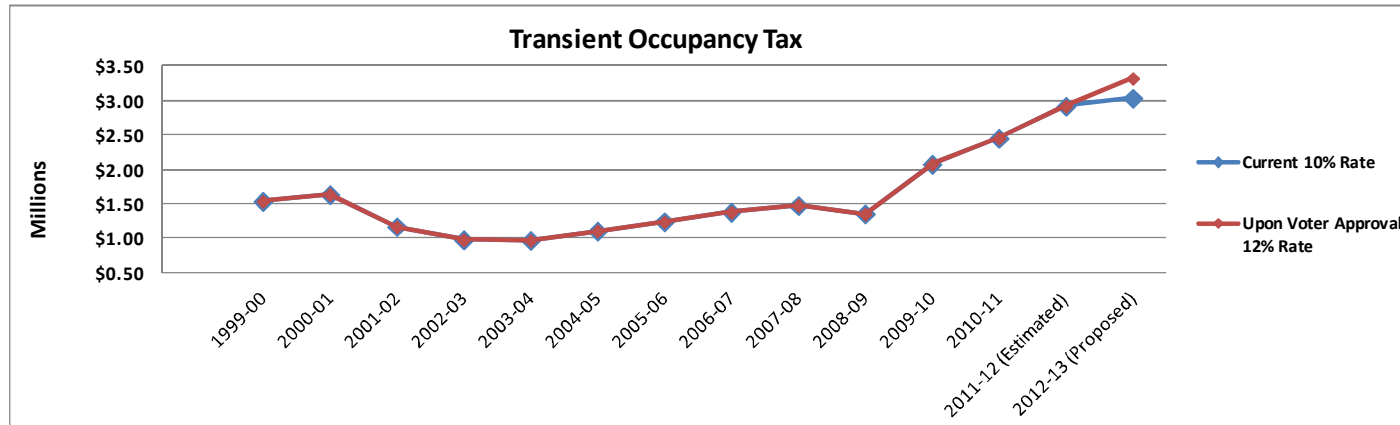
The current fiscal setting presents an additional set of challenges under this new paradigm. The City's General Fund was greatly impacted by the dissolution of redevelopment agencies and the need to continue some of the vital services formerly funded through that source. Other challenges include the obligation to fund long-term comprehensive planning activities, the slow economic recovery and the need to continue previous years' operational reductions in order to keep costs in line with reduced revenues. These items were major stressors in balancing the General Fund budget and resulted in Council-directed service trade-offs.

GENERAL FUND REVENUE TRENDS SINCE FISCAL YEAR ENDED June 30, 2001												
Revenue Source	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012 (est)
Property Taxes	5,287,616	6,059,380	5,914,296	6,792,082	8,925,236	10,007,808	10,727,003	11,339,649	11,867,559	12,603,742	12,811,324	13,022,600
Sales Taxes	12,358,973	8,648,641	6,857,224	6,048,940	6,057,461	6,503,635	6,799,561	7,676,943	6,865,152	5,499,244	5,988,055	6,132,000
Other Taxes	2,666,328	2,412,305	2,157,462	2,202,364	2,332,273	2,476,442	2,773,249	2,902,827	2,835,853	3,583,152	4,130,997	4,689,413
Utility Users Taxes (new)							641,668	1,651,479	1,162,595	1,148,454	1,122,940	1,135,900
Licenses and Permits	2,997,571	2,329,144	2,671,512	2,553,997	2,570,849	3,092,918	3,279,751	4,005,693	2,843,479	2,738,638	3,239,561	3,436,465
Use of Money and Property	2,696,396	1,966,153	1,391,918	694,342	1,289,037	1,671,653	2,700,614	2,745,485	1,746,993	849,023	575,758	716,000
Intergovernmental	2,730,115	2,762,308	2,862,975	2,322,221	1,442,107	1,732,929	1,754,834	2,009,244	1,827,065	1,811,140	1,946,156	1,153,713
Charges for Services	3,518,154	3,552,392	3,580,793	4,288,973	3,827,158	4,210,639	4,948,444	4,564,918	4,639,203	5,210,044	5,246,251	6,206,341
Fines and Other	1,274,744	1,328,814	1,471,413	1,284,598	1,385,045	1,406,826	1,440,181	1,623,338	1,872,726	1,773,408	1,683,700	1,621,759
	33,529,897	29,059,137	26,907,593	26,187,517	27,829,166	31,102,850	35,065,305	38,519,576	35,660,625	35,216,845	36,744,742	38,114,191

From the trend information above, it is evident that economic recovery since the "dot.com" bust has been supported by increasing property taxes, the addition of the Utility Users' Tax in 2007, and growth in Transient Occupancy Taxes (TOT). These gains were largely offset by the loss of local sales tax revenues and the reduction of over \$1.7 million (79 percent) in interest income in the General Fund since the 2007-08 fiscal year. The federal funds target rate for interest income is projected to remain at the current level of 0 to .25 percent for an indefinite period, further diminishing interest revenues. Per the graph below, interest earnings are a much less significant portion of the City's revenue stream.



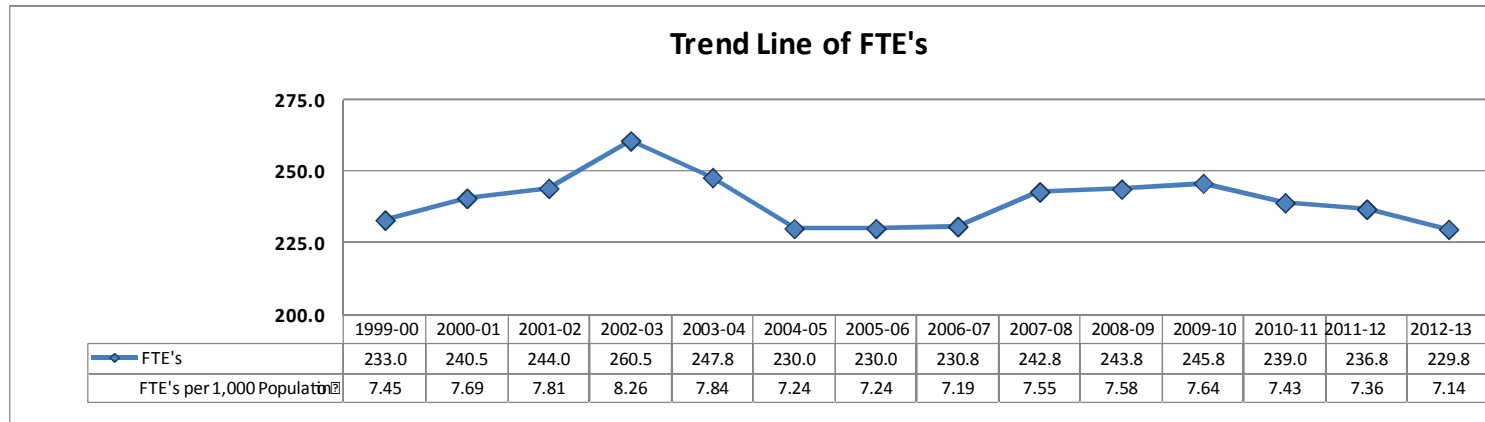
Property taxes and TOT remain bright spots in the revenue picture, as real estate values in the area continue to buck national trends and local hotels recover both rates and occupancy levels to pre-recession levels. The 2012-13 General Fund budget assumes an increase in the TOT rate from 10 to 12 percent, effective January 1, 2013. However, this will require voter approval in November.



On the expenditure side, employee compensation costs have risen over the years as health care premiums and pension costs continue to rise. With lower yields in investments over the last several years, the California Public Employees Retirement has increased the cost of retirement benefits to public employers. Increasing insurance costs for general liability, workers compensation and property coverage have also contributed to the higher cost of local government services. Additionally, personnel costs increased with the long-term funding of other post-employment benefits implemented in 2007. The schedule below confirms that, at the same time revenues were declining (since the fiscal year 2000-01), the cost of providing General Fund services - over 70% of which is personnel - has increased significantly (extraordinary items have been removed for this comparison):

GENERAL FUND EXPENDITURE TRENDS SINCE FISCAL YEAR ENDED June 30, 2001												
Expenditure Category	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012 (est)
Personnel	16,952,114	18,055,363	18,779,435	18,682,163	19,956,863	20,372,055	22,798,667	25,471,178	27,282,856	26,960,644	26,845,801	26,687,679
Operating	4,358,162	4,557,128	3,800,803	3,492,436	3,511,604	3,729,324	4,490,278	4,688,423	4,534,018	4,726,739	4,614,493	4,242,121
Services	1,573,911	1,764,947	1,648,438	1,177,841	1,115,301	1,394,129	2,124,512	2,433,891	2,683,126	2,677,924	2,250,245	3,432,780
Transfers Out	7,287,500	2,508,504	1,496,000	2,897,483	3,646,000	1,946,000	3,263,578	2,502,525	1,734,200	2,132,656	2,267,950	2,377,800
	30,171,687	26,885,942	25,724,676	26,249,923	28,229,768	27,441,508	32,677,035	35,096,017	36,234,200	36,497,963	35,978,489	36,740,380

Personnel costs include employee salaries, retirement, health and other benefits. Next year, the General Fund personnel budget is \$1.7 million higher than the current year adopted budget, largely due to the funding of personnel previously supported with redevelopment revenues, but also due to a full funding of all positions, even if currently vacant. Despite the reduction of seven full time equivalent (FTE) staff positions city-wide, the 2012-13 budget for personnel costs remains flat. Salaries and wage budgets declined, but increases in health insurance premiums (\$183,000, nearly 6 percent) and retirement costs (\$125,000, 3.6 percent) offset these savings.



FISCAL YEAR 2012-13 BUDGET

In total, projections call for 2012-13 revenues to increase approximately \$2.35 million over the 2011-12 fiscal year adjusted budget, largely due to an anticipated increase in property tax revenues, charges for services, revenue from the Facebook development agreement and an anticipated increases in the TOT rate. Sales taxes are showing only a small increase of about 2.0 percent. The largest reduction in revenues is Inter-Governmental Revenue. With limited resources available from the federal government and significant state budget reductions, inter-governmental revenue is estimated to drop by approximately \$230,000 - over 20 percent. With continued low yields on investments, interest revenue will also decline further.

The City Manager’s Proposed Budget for 2012-13 reflects the continuation of past cost reduction strategies, plus implementation of further budget-balancing approaches supported by Council and expected to bring service expectations and revenues into alignment. Recognizing that producing a “balanced” budget for any single year does not necessarily equate to a sustainable budget for the long term, Council continues to state a preference for making adjustments to the expenditure plan within the adopted budget. Strategies employed in development of the 2012-13 budget were those most likely to maintain: key services to the community; the organization’s ability to meet Council goals; a long term focus and the ability to leverage opportunities; the current status of existing infrastructure to avoid higher costs in the future; and the ability to move the City toward a sustainable budget.

The 2012-13 budget was discussed with the City Council at several meetings in early 2012 and a Study Session in early March 2012. With Council’s desire to have a balanced budget for the 2012-13 fiscal year and given the dissolution of redevelopment agencies, Council members supported placing a measure on the November 6, 2012 ballot to increase Menlo Park’s Transient Occupancy Tax (Hotel Tax)

rate from 10% to 12% in alignment with surrounding communities. The 2012-13 budget includes an additional increase of \$280,000 in anticipation of the TOT measure passing in November and increasing the rate as of January 1, 2013.

To complete the budget process, Departments submitted the results of their service measures for inclusion in the Budget Report. Data on community perceptions of services and quality of life are available through the community survey conducted in the autumn of 2010, are the most common and reliable service perception measures. Refining performance measures is an annual process which begins in July when data collection begins for next year's service measure results.

DEPARTMENTAL BUDGET CHALLENGES

Given the aggressive efforts to cut costs at mid-year for the past three years, departments continued to implement both short and long-term operational efficiencies to control spending while providing quality municipal services throughout the year. After many years of cost containment and budget cuts, the proposed budget continues to address only the basics: addressing the Council's priorities and continuing to provide services as well as those programs that make Menlo Park unique. To avoid negative impacts on services, City staff will continue exploring alternative revenue options, additional staffing and labor cost reductions, exploring alternative service delivery models, further operational reviews and aggressive pursuit of available federal, state and local funding. Within this restricted fiscal environment, each department continues to work toward achieving program and service goals contending with their own distinct challenges. Despite these challenges, highlights of the past year follow.

Administrative Services

The Finance Division worked extensively during the past year dealing with the financial and regulatory impact of the loss of redevelopment agencies. A monumental effort within unrealistically short time frames imposed by the state was required to manage the impacts and establish the procedures required of the City as Successor Agency to the former redevelopment agency. Requirements and interpretations of the laws associated with this action continue to evolve and require constant effort to maintain compliance and serve the City's best interests.

The Personnel Division continued under temporary contract leadership when an external recruitment process to replace the Director failed to yield a viable replacement. However, a major recruitment was completed in March with the hiring of a new City Manager. Business Development has also been put on hold following the departure of the Manager of that division in December. The Clerk's Office continued to support the Commission Two-Year Work Plan process and began implementation of "less paper" with electronic agenda management. This year's budget provides for the costs of the election in November, which will include two Council positions and the TOT measure. The Administrative Services Department budget also includes funding for half-time positions that are currently vacant in the offices of Business Development, Information Services and Personnel.

A highlight for the year was the continuation of the Menlo Park Leadership Academy for both the Executive staff and a fourth cohort, in which 15 employees graduated with additional skills and knowledge focused on creating organizational leaders at all levels. These classes have inspired not just those in the class but others throughout the organization.

Community Development

One of the primary focuses of the Community Development Department during the fiscal year has been the El Camino Real/Downtown Specific Plan, consistent with the Council's goals. The Plan passed on June 5 and work on subsequent planning efforts, including a major overhaul of the City's Housing Element to be completed early in the new fiscal year, has already begun.

The second priority for the Department has been processing land use entitlements for the Facebook campus, approved by Council in May. Additional permitting and other planning support for the Facebook West Campus may commence in the coming fiscal year. The Department also finalized the sale of the City's Terminal Avenue property, once a potential housing site, to Beechwood School. Building Division staff is continuing work with major land owners in the M-2 zoning district to expedite the plan check process for tenant improvements.

Community Services

The Community Services Department continued refining business plans designed to achieve greater cost recovery at the new facilities on the Burgess Campus and maximizing program capacity. An improved branding and marketing strategy will be implemented in the coming year to support these goals. The Social Services Division also continues to evolve and will implement a strategic focus on community capacity-building and sustainable partnerships in the coming year. The Housing Division was eliminated in February due to the dissolution of the City's redevelopment agency.

Library

The main library was closed for three weeks during the spring of 2012 to install equipment and furnishings for a redesigned circulation area to allow for expanded self-check-out services. Both of these efforts should improve the use of staff resources within the library, freeing available staff to provide more direct patron assistance.

Police

A new patrol schedule was adopted in FY 2011-12, reducing the current 2,184-hour annual work year to the standard 2080-hour work year and saving approximately \$275,000 annually. The Department's dispatching contract with the City of San Carlos expired in November and was not renewed, reducing the dispatch unit from 11 personnel to 7. A police volunteer program was developed, and the department has adopted a social media program for improved community outreach.

Through the General Fund, the Police Department will maintain the important operations of the Narcotics Enforcement Team (NET), previously funded from redevelopment funds. The NET serves to combat narcotics and gang violence, partnering with allied agencies for maximum impact in making the community a safer place to live and a desirable place to do business.

Public Works

During the 2011-12 fiscal year, the Public Works Department completed the final of the three most recent major capital improvement project on the Burgess Campus funded in partnership with the Arrillaga family – the Arrillaga Family Gymnastics Center. Other significant projects completed this year included improvements to the parking system downtown, and renovation to Parking Plaza 2. The Department has continued to look for ways to reduce operating costs and work toward a long-term sustainable budget. Energy retrofits and water conservation improvements, which have both environmental benefits and cost savings, have been completed in many city facilities. The transition to LED streetlights has been completed for approximately 25 percent of the City.

The Public works budget reflects alternate funding sources to mitigate the impact of the dissolution of the redevelopment agency on the General Fund. For example, the City will receive funding from a Metropolitan Transportation Commission grant to substitute a large majority of the funding from the former RDA (\$72,000) for shuttle operations. Certain streets maintenance and repair costs (\$56,000) have been moved from the General Fund to the Construction Impact Fee Fund. And the Gas Tax Fund will contribute \$250,000 to the CIP transfer to support additional funding of the bi-annual Streets Resurfacing Project .

Maintenance of the City's infrastructure continues to be a high priority, and this year's five-year Capital Improvement Plan (CIP) includes a 4% increase to infrastructure funding, as the amount has been unchanged since the 2008-09 budget. The CIP fund which includes projects through the 2016-17 fiscal year, has also become the funding tool for long range planning projects, information systems upgrades and new or replacement facilities that are not covered by maintenance budgets. Input from the City's appointed commissions was solicited on the draft plan and incorporated into the current proposal. The CIP was extensively altered to reflect the loss of redevelopment funding, and will continue as a valuable resource in prioritizing capital projects as the plan is updated.

The 2012-13 budget factors in completion of capital projects started in the current fiscal year, most notably the \$4.5 million 2011-12 Street Resurfacing Project. This project qualifies for Proposition 1B funding from the State in the amount of \$460,000. In addition, the 2012-13 fiscal year budget provides for 21 projects totaling \$2.4 million from the General Fund CIP. Funds for all projects shown in the 2012-13 year of the five-year CIP will be appropriated with adoption of the budget and become available on July 1, 2012. Projects in subsequent years are approved for planning purposes and will be considered for appropriation in the budget year indicated in the five-year plan.

OTHER FUNDS

In addition to the General Fund and CIP Program, the City's budget includes numerous other separate but interdependent special revenue funds. These funds are established to account separately for special-purpose revenues and expenditures. The Estimated Fund Balances section shows the latest projected fiscal year-end fund balances and the programmed revenues and expenditures for fiscal year 2012-13. Staff carefully monitors all fund balances. Decreases in fund balance may indicate a future reliance on General Fund appropriations in order to continue services, programs or projects that were intended to be self-sufficient or funded through other means. A Summary of Fund Balances was presented to the Council with the City Manager's proposed budget and staff report for consideration of long-term trends and impacts.

It is important to note that these fund balance estimates change over time based on the actual status of the various projects that are underway and the corresponding staffing levels. The Budget Report contains additional detailed, service-level information by department with respect to the interaction between these funds and the City General Fund operating budget.

SUMMARY

As your new City Manager, I inherited a better-than-expected budget scenario and financial forecast that shows signs of stabilizing. In total, this 2012-13 Budget honors the Capital Improvement Projects approved by the Council for the 2012-13 fiscal year and provides for the continuance of the City Council's established goals. All of this is credited to staff making sound financial recommendations and the Council having the courage to make the hard decisions so that we, as an organization, can continue to deliver the services our residents have come to enjoy and expect. City Managers, by nature, are cautious and this budget reflects a cautious, yet achievable, fiscal plan that will allow us to do the work the Council has asked of us.

Importantly, the City of Menlo Park's Fiscal Year 2012-13 Budget is balanced and contains a small surplus. It assumes an inflationary increase to the full annual transfer for infrastructure maintenance, and maintains the Utility Users Tax (UUT) at its current rate. Revenue increases come largely from the new development agreement with Facebook and anticipated increases in the hotel tax rate from a proposed ballot measure in November. This careful balancing of the fiscal year's revenues and expenditures is supported by the continued implementation of previously approved strategies, some of which are not sustainable in the long term. This approach allows for a measured response to the slow recovery of the economy, and, depending upon the performance of the City's other revenue-generating sources, is the most appropriate for determining an adequate rate of taxation over time. Once again, the presence of substantial reserves reflects the foresight of you, prior City Councils and the community, allowing the City to manage costs strategically and to position itself well for the future. The goal of moving closer to long-term budget sustainability will require us to continue to closely review our organizational structure and be willing to take an innovative approach to some programs in order to better align our expenses with revenues while maintaining the community's core services.

The final result is a budget that will guide organizational efforts to maintain Menlo Park's position as a premier community. Looking towards next year, I anticipate several changes to the budget process, the document and further consideration of how we deliver services. I appreciate the City Council's leadership, support and confidence during this period of transition. I also wish to thank staff throughout the organization; most notably department directors, for their efforts at all levels of this budget's development; and special thanks to Finance Director Carol Augustine and her staff for managing this ever-changing financial picture.

Respectfully submitted,



Alex D. McIntyre
City Manager

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ADMINISTRATIVE SERVICES

Council Meeting Date: June 12, 2012

Staff Report #: 12-095

Agenda Item #: F-2

REGULAR BUSINESS: Introduction of an Ordinance to amend Menlo Park Municipal Code to increase the Transient Occupancy Tax (TOT) rate from 10% to 12%

RECOMMENDATION

Staff recommends that the City Council introduce an ordinance (Attachment A) to amend Menlo Park Municipal Code to increase the Transient Occupancy Tax (TOT) rate from 10 percent to 12 percent subject to voter approval at the General Municipal Election on November 6, 2012.

BACKGROUND

The City has had a transient occupancy ordinance since June 1974, when it was first established at a rate of six percent. The rate was subsequently increase since then to its current rate of ten percent on “rent charged by any hotel, motel or inn within the City limits for any person who exercises occupancy for thirty consecutive calendar days or less.”

After considering the 10-year financial forecast that was presented to Council with the 2011-12 Mid-year Report in February, which identified a budget deficit for future years, the Council requested an analysis and timeline regarding a potential November 2012 ballot measure to increase the rate of the tax. On April 17th, staff provided this information, noting that an increase in the TOT could be a tool to strengthen the City’s General Fund revenue base. Each one percent increase in the City’s TOT rate would generate approximately \$290,000, assuming hotel usage and rents remain stable in the future.

ANALYSIS

An increase in the TOT rate requires an amendment to Chapter 13.16 of the Menlo Park Municipal Code. Section 3.16.030 Municipal Code specifies the TOT rate of 10%. An ordinance to increase tax rate requires a 2/3 vote (four members) of the City Council and a majority of the City’s voters at a Regular Municipal Election. Attachment A is a draft Ordinance to amend Section 13.16.030 to increase the TOT rate from 10% to 12% effective January 1, 2013. If this ordinance, as presented, is acceptable, the Council should introduce the ordinance with a second reading and adoption on July 17th. At that

same meeting, the Council will need to adopt a Resolution calling for an election, consolidating the election, directing the City Attorney to prepare an Impartial Analysis, and designating one or more of its members to write and sign a ballot argument in favor of the measure, if so determined by the City Council.

IMPACT ON CITY RESOURCES

The current projection of TOT revenues for the City for fiscal year 2012-13 assumes an increase in the TOT from 10 percent to 12 percent effective January 1, 2013. The increase is projected to add \$280,000 in General Fund revenues in the second half of the 2012-13 fiscal year, and \$570,000 in subsequent fiscal years' budgets. If the ballot measure is unsuccessful, the added revenues will be removed from the budget and 10-Year Forecast, with the City again facing a deficit budget for 2012-13 and beyond.

The cost to add a secondary ballot measure on the ballot in the November 2012 General Election will be in the range of an additional \$10,000 – 15,000.

POLICY ISSUES

The TOT is a general tax, and as such may be imposed for general governmental purposes. As a tax on hotel and motel rentals, it is not a tax that falls on local residents, but is paid by visitors to assist in the continuance of City-provided services that include roads, parks, public safety and library services. Pursuant to State law, any increase of the TOT rate must be approved by a 2/3 vote (four members) of the City Council and a majority of the City's voters at a Regular Municipal Election.

ENVIRONMENTAL REVIEW

Environmental Review is not required.

For William L. McClure
City Attorney

Carol Augustine
Finance Director

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. Draft Ordinance to increase TOT rate effective January 1, 2013

ORDINANCE NO.

ORDINANCE OF THE CITY OF MENLO PARK AMENDING SECTION 3.16.030 [IMPOSITION] OF CHAPTER 3.16 [TRANSIENT OCCUPANCY TAX] OF TITLE 3 [REVENUE AND FINANCE] OF THE MENLO PARK MUNICIPAL CODE TO INCREASE THE TAX RATE TO 12%

The City Council of the City of Menlo Park does ORDAIN as follows:

SECTION 1. The City Council of the City of Menlo Park hereby finds and determines that:

- A. The citizens of the City of Menlo Park wish to increase the Transient Occupancy Tax imposed on all transients for the privilege of occupancy in any hotel to twelve percent (12%) beginning on January 1, 2013.

SECTION 2. The first sentence of Section 3.16.030 [Imposition] of Chapter 3.16 [Transient Occupancy Tax] of Title 3 [Revenue and Finance] of the Menlo Park Municipal Code is hereby amended to read as follows:

3.16.030 Imposition. For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of twelve percent (12%) of the rent charged by the operator beginning January 1, 2013.

SECTION 3. If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or enforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

SECTION 4. If a majority of voters voting thereon at the General Municipal Election on November 6, 2012, approve this Ordinance amending Chapter 3.16, the effective date of this ordinance shall be ten days after the date the City Council declares the results of the election. Within fifteen (15) days of its adoption this ordinance shall be posted in three (3) public places within the City of Menlo Park, and the ordinance, or a summary of the ordinance prepared by the City Attorney, shall be published in a local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the twelfth day of June, 2012.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the _____ day of June, 2012, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Kirsten Keith
Mayor

ATTEST:

Margaret S. Roberts, MMC
City Clerk



ADMINISTRATIVE SERVICES DEPARTMENT

Council Meeting Date: June 12, 2012

Staff Report #: 12-094

Agenda Item #: F-3

REGULAR BUSINESS: Amend the Public Noticing Policy (Policy) for Development Permit Applications in order to provide alternate means for noticing the public of development project applications in a cost effective and efficient manner

RECOMMENDATION

Staff recommends that the City Council amend the Public Noticing Policy for Development Permit applications in order to provide alternate means for noticing the public of development project applications in a cost effective and efficient manner.

BACKGROUND

The City of Menlo Park provides public notices for all applications for development permits that require review by the Planning Commission and/or City Council. The current noticing policy (Attachment A) was recommended by the Planning Commission on April 11, 2005 and approved by the City Council on May 5, 2005. The Policy requires notices of meetings at which applications will be considered by the Planning Commission and/or City Council, as well as notices of initial application submittals, the latter of which include hard copies of select project plan sheets. Included in the current Policy is a statement that the policy may be amended or revised by action of the City Council, with input from the Planning Commission. The Planning Commission reviewed the proposed Policy change on May 21, 2012 and their input is included in the analysis.

ANALYSIS

Staff is proposing the elimination of hard copies of site plan and elevations as part of the mailed notice of application submittal. Instead, a postcard will be sent, containing a link to the City of Menlo Park web site, where electronic copies of the site plan and elevations may be viewed, along with other information about the application. The primary drivers behind this requested change are advances in technology and the desire to conserve paper. In addition, most of the application submittal notices require staff to physically take the notices to the Post Office where the mail carrier is stationed; this station is currently located on Bohannon Drive, a relatively short drive from City offices, but is proposed to change to Palo Alto in the near future. Mailing only postcards

for application submittals will help conserve staff resources. There are no changes being proposed to the Public Hearing notice process.

The Planning Commission at their May 21, 2012 meeting provided input on four topics, which are listed below and staff concurs with their comments.

- Providing information about public internet access sites, such as the library, for those who may not have home internet access;
- Mailing hard copies of project plans on request;
- Ensuring projects are described clearly and accurately, and planner contact information is prominently displayed; and
- Overall paper reduction and technology upgrades (Commission packets, Council Chambers).

The City's Notices web page is currently being constructed and will be the responsibility of the City Clerk's office when it is complete. Included on the Notices page will be a unique file name, sections for the various types of notices that the City publishes, i.e. Development Related Notices and Bid Notices. All notices will remain on the Notices page until the action is taken or meeting completed relating to the notice. It will also contain links from the appropriate department, commission and project pages. Staff has determined that having all City notices in one place on the website will be a helpful for our citizens by enabling them to go to one page to locate any notice. The goal for implementation is July 1 or as soon thereafter as feasible.

IMPACT ON CITY RESOURCES

The last cost analysis done by the Planning Division was completed in 2010 comparing the 2011 rates versus the 2010 rates for postage.

Based on the number of development permit applications in 2010 the following is the cost of postage.

2010	\$4,919.45	2010 postage cost for 63 development permit applications
2011	\$6,659.17	2011 postage cost for 63 development permit applications
2012	\$6,921.72	2012 postage cost for 63 development permit applications

The postage rate increases since 2010 have significantly affected the mailing costs. The number of development permit applications last year was 68, with 80% having to be driven to the Bohannon Drive Post Office. There will be some notices that will still require Public Hearing notices to be mailed, however there will still be a significant savings in postage as well as staff time to drive the notices to the Post Office.

POLICY IMPLICATIONS

This will be policy change regarding how the public is noticed for a variety of Development permit applications.

ENVIRONMENTAL REVIEW

No environmental assessment is required; however the City will be saving trees.



Margaret S. Roberts, MMC
City Clerk

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. Current Policy
- B. Redline Version
- C. Recommended Policy
- D. Memo to Planning Commission



COMMUNITY DEVELOPMENT

PLANNING DIVISION
701 Laurel Street
Menlo Park, CA 94025
650-330-6702
www.menlopark.org

PUBLIC NOTICING POLICY FOR DEVELOPMENT PERMIT APPLICATIONS REVIEWED BY THE PLANNING COMMISSION AND/OR CITY COUNCIL

The following public noticing procedures apply to all applications for development permits that require review by the Planning Commission and/or City Council. Development permit applications include the following: use permits, variances, architectural control, conditional development permits, planned development permits, General Plan amendments, Zoning Ordinance amendments, Zoning Map amendments, minor subdivisions, and major subdivisions.

1. Within seven (7) days of receipt of a formal application, the application will be assigned to a project planner and a notice prepared and mailed to all residents, businesses, and property owners within a minimum of 300 feet of the project site and posted on the City's website. The notice will include the following information:
 - Name of the applicant
 - Address of the project
 - Brief description of the proposal
 - 8.5-inch by 11-inch copies of the site plan and all elevations
 - Name, email and phone number of project planner
2. At least 18 days prior to the Planning Commission or City Council meeting date (three Thursdays before the meeting date), a notice will be placed with a local newspaper used to publish official notices for the City of Menlo Park (currently the *Menlo-Atherton Recorder dba The Almanac*) for publication and posted on the City's web site. The notice would be published 12 days before the meeting date.
3. At least 18 days prior to the Planning Commission or City Council meeting date (three Thursdays before the meeting date), a notice announcing the date and time of the meeting will be mailed to all residents and property owners within 300 feet of the project site. The notice should include highlighted language notifying readers of substantial changes made to the plans since the submittal and preparation of the first notice.

ATTACHMENT A

Amendment to Policy:

This policy may only be amended or revised by action of the City Council, with input from the Planning Commission. The City Council shall give public notice of any proposed changes before amending or revising the policy.

Adopted by: City Council

Date: May 10, 2005

**PUBLIC NOTICING POLICY FOR DEVELOPMENT PERMIT APPLICATIONS
REVIEWED BY THE PLANNING COMMISSION AND/OR CITY COUNCIL
DRAFT REVISIONS – MAY 21, 2012**

The following public noticing procedures apply to all applications for development permits that require review by the Planning Commission and/or City Council. Development permit applications include the following: use permits, variances, architectural control, conditional development permits, planned development permits, General Plan amendments, Zoning Ordinance amendments, Zoning Map amendments, minor subdivisions, and major subdivisions.

1. Within seven (7) days of receipt of a formal application, the application will be assigned to a project planner and a notice prepared and posted to the Notices page on the City's website. ~~and mailed to all residents, businesses, and property owners within a minimum of 300 feet of the project site and posted on the City's website.~~ The notice will include the following information:

- Name of the applicant
- Address of the project
- Brief description of the proposal
- 8.5-inch by 11-inch copies of the site plan and all elevations
- Name, email and phone number of project planner

2. Within seven (7) days of receipt of formal application, a postcard notice will be mailed to all residents, businesses, and property owners within a minimum of 300 feet of the project site. The postcard will include the following information:

- Name of the applicant
- Address of the project
- Name, email and phone number of project planner
- Link to the City of Menlo Park website, Notices page for details, which will also contain a link to subscribe to future updates to the Noticing page

- ~~2.3.~~ At least 18 days prior to the Planning Commission or City Council meeting date (three Thursdays before the meeting date), a notice will be placed with a local newspaper used to publish official notices for the City of Menlo Park (currently ~~the Menlo-Atherton Recorder dba The Almanac~~ The Daily News) for publication and posted on the City's web site. The notice would be published 12 days before the meeting date.

- ~~3.4.~~ At least 18 days prior to the Planning Commission or City Council meeting date (three Thursdays before the meeting date), a notice announcing the date and time of the meeting will be mailed to all residents and property owners within

ATTACHMENT B

300 feet of the project site. The notice should include highlighted language notifying readers of substantial changes made to the plans since the submittal and preparation of the first notice.

Amendment to Policy:

This policy may only be amended or revised by action of the City Council, with input from the Planning Commission. The City Council shall give public notice of any proposed changes before amending or revising the policy.

Adopted by: City Council

Date:

PUBLIC NOTICING POLICY FOR DEVELOPMENT PERMIT APPLICATIONS REVIEWED BY THE PLANNING COMMISSION AND/OR CITY COUNCIL

The following public noticing procedures apply to all applications for development permits that require review by the Planning Commission and/or City Council. Development permit applications include the following: use permits, variances, architectural control, conditional development permits, planned development permits, General Plan amendments, Zoning Ordinance amendments, Zoning Map amendments, minor subdivisions, and major subdivisions.

1. Within seven (7) days of receipt of a formal application, the application will be assigned to a project planner and a notice prepared and posted to the Notices page on the City's website. The notice will include the following information:
 - Name of the applicant
 - Address of the project
 - Brief description of the proposal
 - Copies of the site plan and all elevations
 - Name, email and phone number of project planner

2. Within seven (7) days of receipt of formal application, a postcard notice will be mailed to all residents, businesses, and property owners within a minimum of 300 feet of the project site. The postcard will include the following information:
 - Name of the applicant
 - Address of the project
 - Name, email and phone number of project planner
 - Link to the City of Menlo Park website, Notices page for details, which will also contain a link to subscribe to future updates to the Noticing page

3. At least 18 days prior to the Planning Commission or City Council meeting date (three Thursdays before the meeting date), a notice will be placed with a local newspaper used to publish official notices for the City of Menlo Park (currently *The Daily News*) for publication and posted on the City's web site. The notice would be published 12 days before the meeting date.

4. At least 18 days prior to the Planning Commission or City Council meeting date (three Thursdays before the meeting date), a notice announcing the date and time of the meeting will be mailed to all residents and property owners within 300 feet of the project site and posted on-line on the Notices page of the City's website. The mailed notice should provide information that substantial changes have been made and a link to the Notices page to view the changes. The on-line notice should include highlighted language notifying readers of substantial changes made to the plans since the submittal and preparation of the first notice.

ATTACHMENT C

Amendment to Policy:

This policy may only be amended or revised by action of the City Council, with input from the Planning Commission. The City Council shall give public notice of any proposed changes before amending or revising the policy.

Adopted by: City Council

Date:



MEMORANDUM

DATE: May 21, 2012
TO: Planning Commission
From: Margaret S. Roberts, City Clerk
RE: Agenda Item E2: Consideration of an amendment to the Public Noticing Policy (Policy) for Development Permit Applications in order to provide alternate means for noticing in order to provide alternate means for noticing the public of development projects in a cost effective and efficient manner

On April 11, 2005, the Planning Commission recommended approval of the Policy (Attachment A) and subsequently the City Council approved the Commission's recommendation on May 5, 2005. Included in the current Policy is states that the policy may be amended or revised by action of the City Council, with input from the Planning Commission.

Since the Policy in 2005, advances in technology and the desire to cut down on paper; staff is bring forward proposed changes to the Policy. Another consideration is that staff is currently required to take the notices to the Post Office where the mail carrier is stationed, which is located on Bohannon Drive. The Bohannon Drive Post Office is planning to move to Palo Alto in the near future. The main change to the policy is the elimination of mailing out the Notice in its entirety including the site plan and elevations.

Once notices were written, depending on the number of pages determines the method used to mail the notice. The city mails out Flats and Cards. During 2011 there were 68 notices compared to the 63 notices in 2010.

Staff is looking for the Commission's input on the changes so that they can be included in the staff report when this item goes to the Council on June 5, 2012.

ATTACHMENTS

- A. Current Public Noticing Policy
- B. Proposed Revised Public Noticing Policy
- C. Redline version of the Public Noticing Policy



COMMUNITY SERVICES DEPARTMENT

Council Meeting Date: June 12, 2012
Staff Report #: 12-086

Agenda Item #: I-1

INFORMATION ITEM: Belle Haven Child Development Center Self Evaluation Report for the Child Development Division of the California Department of Education for Fiscal Year 2011-12

This is an information item and does not require Council action.

BACKGROUND

The California Department of Education requires Title 5 State Preschool Programs to conduct an annual self-evaluation and submit these findings to the State and the school's governing board at the close of each fiscal year. The Belle Haven Child Development Center (CDC) is a Title 5 State Preschool Program; the Council is the governing board and the City Manager is the Authorized Representative responsible for signing the annual report that was completed by the Belle Haven CDC program supervisor.

ANALYSIS

The fiscal year 2011-12 self-evaluation report includes:

- The Agency Annual Report (State form CD 4000)
- The Environmental Rating Scale Summary Findings (State form CD 4002)
- The Desired Results Program Action Plan (State form CD 4003)
- A personnel roster
- Attestation of Qualified Staff and Ratio Requirements (State form DC 3701A)

IMPACT ON CITY RESOURCES

The Belle Haven CDC was budgeted to receive \$805,835 from the State of California in addition to the City's contribution of \$434,719 in FY 2011-12. Acceptance of this report has no impact on these amounts.

POLICY ISSUES

Acceptance of the annual report by the CDC governing board is a state requirement.

ENVIRONMENTAL REVIEW

Environmental Review is not required.



Cherise Brandell,
Community Services Director

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. Belle Haven CDC Self Evaluation Report for FY 2011-12

**Fiscal Year 2011–12 Program Self-Evaluation
Forms**

**All Forms Due:
Friday, June 1, 2012, 5 p.m.**

**Child Development Division
California Department of Education**

Program Self-Evaluation Annual Report

Contractor's Legal Name City of Menlo Park- Belle Haven Child Development Center			
Vendor Number 2184		<input type="checkbox"/> Cal-SAFE CDS Code	
Contract and Age	<input checked="" type="checkbox"/> CSPP <input type="checkbox"/> CCTR – (Infant/Toddler) <input type="checkbox"/> CCTR – (School Age) <input type="checkbox"/> Education Network (Infant/Toddler) <input type="checkbox"/> Education Network (Preschool) <input type="checkbox"/> CHAN <input type="checkbox"/> CMIG - (Infant/Toddler) <input type="checkbox"/> CMIG - (Preschool)		
Date Program Self-Evaluation Completed			
Number of Classrooms	4	Number of Family Child Care Homes	0
Describe the Program Self-Evaluation Process (Note: This area expands as necessary.)			
<p>Our Center began our self-evaluation process soon after we enrolled new children for the upcoming school year in Summer 2011. All instructional staff began observations on the children in July and August of 2011. All instructional staff completed the Developmental Profile (DRDP) for each child, in each of the classrooms, in September and October of 2011. All completed DRDPs were entered into the Group Data Summary spreadsheet for each classroom by the Administration staff in October 2011. Then, all the Lead Teachers used the Developmental Progress form to summarize the information about each child's progress during parent conferences in November 2011. All Group Data Summary sheets were presented to all instructional staff at our monthly staff meeting in December 2011. Also at the staff meeting, all instructional staff identified key findings from the results of the DRDPs and created action steps that they implemented over the coming months for their group of children.</p> <p>In January and February of 2012 parent surveys were passed out during the monthly parent meeting, and then collected by the Administration. In March of 2012 the surveys were compiled into the Group Data Summary by the Administration. Results from the summary of the parent surveys were presented to all staff at the monthly staff meeting in May 2012.</p> <p>The Early Childhood Environment Rating Scale (ECERS) was completed in the classrooms on March 13, 2012, March 26, 2012 and April 6, 2012 by the Program Supervisor and the Assistant Program Supervisor at Menlo Children's Center. During the monthly staff meeting and the Lead Teacher meeting in April 2012 the ECERS results were reviewed. All program staff identified key findings from the results and created action steps that were implemented over the coming months in each classroom.</p> <p>All instructional staff completed their second set of DRDP assessments for each child, in each classroom, during March and April of 2012. All completed DRDPs were entered into the Group Data Summary spreadsheet for each classroom by the Administration in April 2012. All Group</p>			

Data Summary sheets were presented to the Lead Teachers in early May 2012, where key findings were identified and action steps were created. These action steps will be implemented over the coming months with each group of children.

On May 24, 2012 the Agency Annual Report was completed by the Program Supervisor which included the Program Self- Evaluation, the Desired Results Developmental Profile Summary of Findings and the Program Action Plan. The Annual Report was reviewed by the City of Menlo Park Representative, the Director of Community Services and will be presented to the City Council at the June 12, 2012 meeting. Also the Annual Report will be presented to all program staff on May 25, 2012 and to parents on June 7, 2012.

A copy of the Program Self-Evaluation will be/has been presented to the Governing Board.		Date June 12, 2012
A copy of the Program Self-Evaluation will be/has been presented to teaching/program staff.		Date October 5, 2011 and May 25, 2012
A copy of the Program Self-Evaluation will be/has been presented to parents.		Date June 7, 2012
Statement of Completion I certify that a Program Self-Evaluation was completed.	Signature Name, Title, and Phone Number Natalie Bonham Program Supervisor: 650-330-2272	Date May 24, 2012

**Desired Results Developmental Profile Summary of Findings
And Program Action Plan – Program or Network Level**

Contractor Name City of Menlo Park – Belle Haven Child Development Center	
Contract Type, Education Network, and/or Cal-SAFE CSPP	Age Group (Infant/Toddler, Preschool, School-Age) Preschool
Planning Date May 15, 2012	Lead Planner’s Name and Position Natalie Bonham – Program Supervisor
Follow-up Date(s) November and December 2012	Lead Planner’s Name and Position Leticia Gutierrez – Lead Teacher Room 1 Stephanie Enriquez – Lead Teacher Room 2 Maria Lopez – Lead Teacher Room 3 Stephanie Hong – Lead Teacher Room 4

This form can be expanded and is not limited to a single page.

Key Findings from Developmental Profiles And Educational Goal (What will be accomplished for children?)	Action Steps (Including materials and training needed, schedule, space and supervision changes)	Expected Completion Date and Persons Responsible	Follow-Up and Reflection (Changes made, date completed, time extended)
An average of 60% of the preschool children are at the Exploring, Developing and Building levels in the domain of Language and Literacy.	All instructional staff will be provided with a professional development training day which will include a Preschool Learning Foundations for language and literacy as well as English-language development. This will allow the instructional staff to incorporate more language and literacy activities into the daily curriculum to increase the children’s’ development.	November 2012 Program Supervisor	
An average of 70% of the preschool children will be at the Building and Integrating levels in	During monthly parent meetings, parents will be	December 2012	

the Language and Literacy domain after the second DRDP assessment period in FY 2012-13.	encouraged to participate in the Raising A Reader program and the homework program to help to support their child's language and literacy development.	Program Supervisor	
	All language and literacy materials in the classrooms will be evaluated, using ERS as a guide, to see what is needed to enhance the children's development.	November 2012 All instructional staff	
	All instructional staff will ensure that language and literacy activities will be provided for the children during outdoor play time.	November 2012 All instructional staff	
	The program supervisor will be supervising and facilitating all instructional staff to ensure this process is ongoing.	December 2012 Program Supervisor	
An average of 60% of the preschool children are at the Exploring, Developing and Building levels in the domain of Mathematical Development.	All instructional staff will be encouraged to incorporate a professional development goal for the upcoming FY 2012-13 that relates to the children's mathematical development. This will allow the instructional staff to implement more math activities into the daily curriculum.	December 2012 All Instructional staff	
An average of 70% of the preschool children will be at the Building and Integrating levels in the Mathematical Development domain after the second DRDP assessment period in FY 2012-13.	All math materials in the classrooms will be evaluated, using ERS as a guide, to see what is needed to enhance the children's development.	November 2012 All instructional staff	
	Parent education will be provided during parent conferences to encourage parents to do math activities with their children to increase their development.	November 2012 Lead Teachers	
	All instructional staff will review and ensure that enough time is given to the children to explore the math area in the classrooms during free play time, as well as math activities incorporated during outdoor play time.	November 2012 All instructional staff	
	The program supervisor will be supervising and facilitating all instructional staff to ensure this process in ongoing.	December 2012 Program Supervisor	

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