



SPECIAL AND REGULAR MEETING AGENDA

Date: 8/27/2019
Time: 6:30 p.m.
City Council Chambers
701 Laurel St., Menlo Park, CA 94025

City Councilmember Catherine Carlton will be participating by phone from:
Ideate Camp
545 and J
Blackrock City, NV 89412

According to City Council policy, all regular meetings of the City Council are to end by midnight unless there is a super majority vote taken by 11:00 p.m. to extend the meeting and identify the items to be considered after 11:00 p.m.

6:30 p.m. Closed Session (City Hall - "Downtown" Conference Room, 1st Floor)

- A. Call To Order**
- B. Roll Call**

Public comment on these items will be taken before adjourning to Closed Session.

CL1. Closed session conference with legal counsel on anticipated litigation pursuant to Government Code §54956.9(d)(2) – one case

Attendees: City Manager Starla Jerome-Robinson, Deputy City Manager/ Public Work Director Justin Murphy, Police Chief Dave Bertini, Outside Counsel Barbara Kautz

Regular Meeting

- A. Call To Order**
- B. Roll Call**
- C. Pledge of Allegiance**
- D. Report from Closed Session**
- E. Presentations and Proclamations**

E1. Certificate of recognition: Steven Foley

F. Public Comment

Under "Public Comment," the public may address the City Council on any subject not listed on the agenda. Each speaker may address the City 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

City Council cannot act on items not listed on the agenda and, therefore, the City Council cannot respond to non-agenda issues brought up under public comment other than to provide general information.

G. Consent Calendar

- G1. Second reading and adoption of an ordinance prohibiting commercial cannabis land uses and personal outdoor cultivation within Menlo Park ([Staff Report #19-176-CC](#))
- G2. Authorize the city manager to enter into a contract with LSA Associates, Inc. (LSA) to prepare an environmental impact report (EIR) for the proposed Menlo Portal project with approximately 320 multi-family dwelling units, 33,100 square feet of office, and 1,608 square feet of commercial space at 115 Independence Drive and 104 and 110 Constitution Drive for the amount of \$198,305 and future increases as may be necessary to complete the environmental review for the proposed project ([Staff Report #19-173-CC](#))
- G3. Authorize the city manager to enter into an agreement with the City of Redwood City for annual maintenance of Atherton Channel ([Staff Report #19-174-CC](#))
- G4. Authorize the city manager to enter into an agreement with Chefables in an amount not to exceed \$100,000 for the delivery of food services at the Belle Haven Child Development Center for fiscal year 2019-20 ([Staff Report #19-178-CC](#))
- G5. Adopt Resolution No. 6520 authorizing the city manager to sign a second contract amendment with the State of California Department of Education to Reimburse the City up to \$1,117,860 for child care services at the Belle Haven Child Development Center for fiscal year 2018-19 ([Staff Report #19-179-CC](#))

H. Regular Business

- H1. Receive post adoption review and report of safe city ordinance and direct staff to prepare an ordinance to sunset the safe city ordinance as it is now preempted by current state law ([Staff Report #19-175-CC](#))
- H2. Approve updates to the City's rail policy to consider the Dumbarton transportation project and Caltrain business plan efforts ([Staff Report #19-172-CC](#))
- H3. Select concept 3 as the preferred alternative for the Middle Avenue pedestrian and bicycle rail crossing project ([Staff Report #19-176-CC](#))
- H4. Introduction of Ordinance No. 1057 adopting updated building codes and local amendments to the 2019 California Energy Code to require higher levels of building electrification and solar production for newly constructed buildings to reduce greenhouse gas emissions effective January 1, 2020 ([Staff Report #19-181-CC](#))
- H5. Authorize the issuance and sale of 2019 general obligation refunding bonds (2001 Election) for the purpose of refunding outstanding general obligation bonds, Series 2009A and 2009B, and approve related documents ([Staff Report #19-180-CC](#))

I. Informational Items

- I1. City Council agenda topics: September to November 2019 ([Staff Report #19-170-CC](#))

J. City Manager's Report

K. City Councilmember Reports

- K1. Verbal report from City Council subcommittees on planning and zoning

L. Adjournment

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 any matters of public interest not listed on the agenda, members of the public have the right to directly address the Council on any item listed on the agenda at a time designated by the chair, either before or during the City 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 chair, either before or during consideration of the item. For appeal hearings, appellant and applicant shall each have 10 minutes for presentations.

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

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 city clerk's office, 701 Laurel St., Menlo Park, CA 94025 during regular business hours. 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.

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 menlopark.org/agenda and can receive email notification of agenda and staff report postings by subscribing to the "Notify Me" service at menlopark.org/notifyme. Agendas and staff reports may also be obtained by contacting City Clerk at 650-330-6620. (Posted: 08/15/2019)



STAFF REPORT

City Council

Meeting Date:

8/27/2019

Staff Report Number:

19-177-CC

Regular Business:

Waive the second reading and adopt Ordinance No. 1056 prohibiting commercial cannabis land uses and personal outdoor cultivation within Menlo Park

Recommendation

Staff recommends that the City Council conduct the second reading, waive further reading and adopt the ordinance permitting the personal use and indoor cultivation of cannabis in accordance with state law, prohibiting outdoor personal cultivation of cannabis, and prohibiting all commercial cannabis land uses within the City Menlo Park.

Policy Issues

Under state law, the City Council may regulate, but not ban personal indoor cultivation of cannabis. The City Council may regulate or ban personal outdoor cultivation and both indoor and outdoor commercial cannabis activities. Within the framework of the state law, the decision to regulate or ban cannabis activity is a policy decision for the City Council.

Background

On November 8, 2016, the voters in the State of California passed Proposition 64 or the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) to legalize the nonmedical use of marijuana. In June 2017, the state Legislature passed the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA.) The MAUCRSA blends together medical and nonmedical cannabis regulations. The MAUCRSA established a regulatory system to oversee the cannabis industry and required the state to develop regulations regarding licensing, cultivating, testing, manufacturing and dispensing of cannabis.

Under the MAUCRSA, all cannabis businesses must have a state license. The Bureau of Cannabis Control issues licenses for retailers, distributors, microbusinesses, testing laboratories and temporary cannabis events. The Department of Food and Agriculture issues cultivation licenses. The department of public health issues licenses for cannabis manufacturers. Each state license is valid for one year. A separate state license is required for each commercial cannabis business location. Except for testing facilities, any person or entity that is licensed may apply for and be issued more than one type of state license. The state cannot issue a license to an applicant whose operations would violate local law. Cities that wish to ban all or some cannabis activities must adopt express prohibitions.

Analysis

On October 17, 2017, the City Council passed an interim ordinance prohibiting commercial cannabis activities and personal outdoor cannabis cultivation. The City Council extended the interim ordinance, which will expire September 29. At the June 18 meeting, the City Council directed staff to prepare a permanent

THIS PAGE INTENTIONALLY LEFT BLANK



STAFF REPORT

City Council

Meeting Date:

8/27/2019

Staff Report Number:

19-173-CC

Consent Calendar:

Authorize the city manager to enter into a contract with LSA Associates, Inc. (LSA) to prepare an environmental impact report (EIR) for the proposed Menlo Portal project with approximately 320 multi-family dwelling units, 33,100 square feet of office, and 1,608 square feet of commercial space at 115 Independence Drive and 104 and 110 Constitution Drive for the amount of \$198,305 and future increases as may be necessary to complete the environmental review for the proposed project

Recommendation

Staff recommends that City Council authorize the city manager to approve a contract with LSA for the amount of \$198,305 and future increases as may be necessary to complete the environmental review for the Menlo portal project based on the proposed scope and budget included as Attachment A.

Policy Issues

City Council Resolution Nos. 5831, 5832, and 962, authorize the city manager to execute agreements necessary to conduct City business up to a stated award authority level (\$75,000) which adjusts annually based on changes in the construction cost index. The City Council retains discretion for all agreements exceeding the award authority delegated to city manager.

Approval of the environmental review contract does not imply an endorsement of a project. The City Council will be the final decision-making body and the proposed Menlo Portal project will ultimately require the Planning Commission and City Council to consider the merits of the proposed project, including the request for bonus level development and the associated community amenities provided through the proposed project. Staff will be reviewing the proposed project and will identify policy issues for the City Council to consider as part of its review of the requested land use entitlements for the project. Authorizing the city manager to enter into a contract with LSA would allow the City to conduct the environmental, housing and fiscal reviews, which are necessary for the overall entitlement review of the project proposal.

Background

The project applicant, Greystar, is proposing to demolish the existing buildings and site improvements and construct one seven-story residential building with a total of 320 rental units and one three-story commercial building with 34,708 square feet of commercial space. The proposed floor area ratio (FAR) would be approximately 248 percent, where a maximum of 250 percent FAR is permitted for a development with a density of 100 dwelling units per acre. The proposal includes a request for an increase in height, density, and FAR under the bonus level development allowance, subject to obtaining a use permit and providing one or more community amenities. The anticipated entitlements for the project include a use permit,

architectural control, lot line adjustment, lot merger and environmental review. Select plan sheets from the project plans are included in Attachment B.

The project site consists of three contiguous R-MU-B (residential mixed use, bonus) zoned parcels with a total area of approximately 3.20 acres, and currently contains three single-story buildings with a mix of office and industrial uses. The project site is bounded by Independence Drive to the east and south and Constitution Drive to the north. The parcels to the north and south of the site are located in the M3(X) (commercial business park) district and contain the Menlo Gateway project, which was entitled in 2010 and the second phase (Constitution Drive site) is currently under construction. The parcel to the east of the project site is zoned R-MU-B and currently contains an office building but is part of an active development proposal for a 105 unit, eight-story apartment building. Parcels immediately adjacent to the west of the project site are zoned R-MU-B and contain a mix of office, light industrial and R&D uses. A location map is provided as Attachment C.

In December 2016, the City Council adopted an update to the general plan and zoning ordinance (ConnectMenlo), which rezoned the project site from M-2 (general industrial) to R-MU-B. In March 2019, the City received an application to commence the formal review process for redevelopment of the site. The proposal was reviewed by the Planning Commission at a study session in July 2019. Staff is in the process of evaluating the proposed project for consistency with the general plan and zoning ordinance. If changes are made to the general plan or zoning ordinance before project approval (and before the project obtaining vested rights to proceed,) the project would be required to comply with any applicable changes.

Analysis

The proposed project requires the preparation of an EIR to evaluate the environment impacts of the proposed project. As part of the environmental review process, the potential impacts of the proposed project will be evaluated for consistency with the program level EIR for ConnectMenlo through an initial study. The initial study will determine areas where the proposed project is consistent with the program level EIR and those consistent topic areas would not be analyzed in detail in the EIR. Further, the scope for the project level EIR has been structured to comply with the settlement agreement between the City of Menlo Park and the City of East Palo Alto. Therefore, the proposed environmental analysis will, at a minimum, include a project level transportation impact analysis (TIA) and a population and housing assessment.

The project level TIA will use level of service (LOS) as the threshold of significance for potential transportation impacts resulting from the project. LOS is still the threshold of significance for potential impacts under CEQA (until July 1, 2020) as identified in the City's general plan circulation element and TIA guidelines. However, the TIA will also report the vehicle miles traveled (VMT) associated with the project. While not required to be analyzed as an impact until July 1, 2020, under requirements of Senate Bill 743, the project analysis will disclose VMT for informational purposes. The transportation analysis will use the data in the City's circulation system assessment (CSA) and the City's travel demand model developed in 2016 for the project. If the draft EIR comes out after the July 1, 2020, date it will use, as required by law, VMT as the threshold for significance. As such, the proposal identifies that the analysis will use the appropriate impact threshold based on the current CEQA guidelines in effect at the time of the analysis. The City's transportation division will be updating its TIA guidelines to include VMT and updates to the CSA to be compliant with CEQA by July 1, 2020.

As noted above, following authorization of the contract, LSA will prepare an initial study for the project. The initial study will be used to inform the notice of preparation (NOP,) which will identify the topic areas to be studied in the project level EIR. City staff is evaluating additional outreach options for the NOP and EIR

scoping period to encourage increased public participation in the EIR scoping process, which could include an expanded mailed noticing radius, city website and project page posting, and the City's weekly digest. As part of the initial stages of the environmental and entitlement analysis, City staff will determine what, if any, additional technical analyses could be required for the proposed project and set up contracts with qualified consultants or augment the contract with LSA accordingly. Staff is recommending that the City Council provide the city manager the authority to approve future contract augmentations, if needed.

Impact on City Resources

The applicant is required to pay all planning, building and public works permit fees, based on the City's master fee schedule, to fully cover the cost of staff time spent on the review of the project. The applicant is also required to bear the cost of the associated environmental review and fiscal analysis. For the environmental review and fiscal analysis, the applicant deposits money with the City and the City pays the consultants.

Environmental Review

An EIR will be prepared for the proposed project. As appropriate, the EIR will utilize the program level EIR prepared for ConnectMenlo and focus the project level EIR on specific topics accordingly.

Public Notice

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

Attachments

- A. Hyperlink – EIR scope and budget proposal from LSA: menlopark.org/DocumentCenter/View/22608/
- B. Project plans (select sheets)
- C. Location map

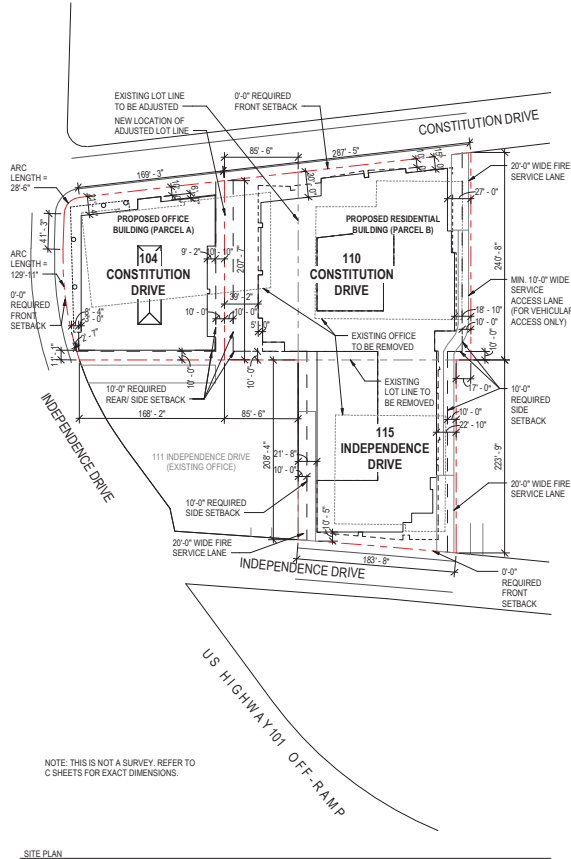
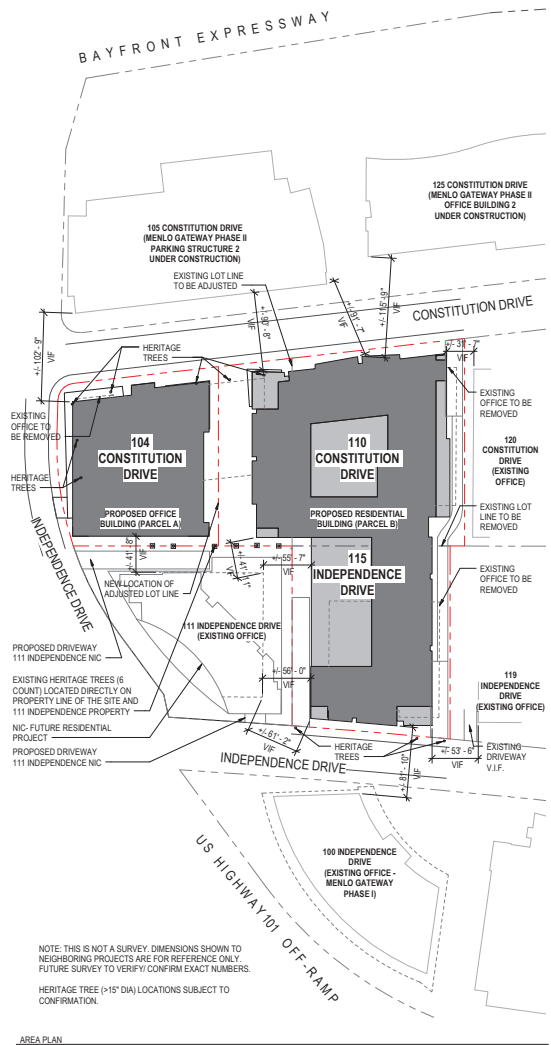
Report prepared by:
Kaitie Meador, Senior Planner

Report reviewed by:
Deanna Chow, Interim Community Development Director



MENLO PORTAL

MULTI-FAMILY HOUSING & OFFICE
MENLO PARK, CA



GREYSTAR | **HM** | BKF 100 YEARS | PGAdesign LANDSCAPE ARCHITECTS

MENLO PORTAL
MENLO PARK, CA
05-20-19

AREA PLAN & SITE PLAN

N
0 30' 60'
A-004



GREYSTAR

HM
HELLER HANUS
ARCHITECTS

BKF 100
YEARS

PGAdesign
LANDSCAPE ARCHITECTS

MENLO PORTAL
MENLO PARK, CA
05-20-19

PROJECT VIEW - FROM MARSH ROAD

A-004A



GREYSTAR

HM
KELLER HANUS
ARCHITECTS

BKF 100 YEARS

PGAdesign
LANDSCAPE ARCHITECTS

MENLO PORTAL
MENLO PARK, CA
05-20-19

PROJECT VIEW - CENTRAL PLAZA
BETWEEN MULTI-FAMILY AND OFFICE

A-004B



GREYSTAR

HM
HELLER HANUS
ARCHITECTS

BKF 100
YEARS

PGAdesign
LANDSCAPE ARCHITECTS

MENLO PORTAL
MENLO PARK, CA
05-20-19

PROJECT VIEW - CENTRAL PLAZA
BETWEEN MULTI-FAMILY AND OFFICE
LOOKING SOUTH

A-004C



GREYSTAR

HM
KELLER HANUS
ARCHITECTS

BKF 100
YEARS

PGAdesign
LANDSCAPE ARCHITECTS

MENLO PORTAL
MENLO PARK, CA
05-20-19

PROJECT VIEW - CENTRAL PLAZA
BETWEEN MULTI-FAMILY AND OFFICE
LOOKING NORTH

A-004D



GREYSTAR

HM
HELLER HANUS
ARCHITECTS

BKF 100
YEARS

PGAdesign
LANDSCAPE ARCHITECTS

MENLO PORTAL
MENLO PARK, CA
05-20-19

PROJECT VIEW - MULTI-FAMILY FROM
CONSTITUTION DRIVE

A-004E



OFFICE AREA SUMMARY LEVEL 1							
NEIGHBORHOOD BENEFIT (INCL. IN FAR)	LOBBY (INCLUDED IN FAR)	OFFICE COMMON AREA (INCLUDED IN FAR)	OFFICE UTILITY (INCLUDED IN FAR)	OFFICE UTILITY (NOT INCLUDED IN FAR)	OFFICE PARKING (NOT INCLUDED IN FAR)	OFFICE OPEN SPACE (NOT INCLUDED IN FAR)	TOTAL OFFICE AREA (FAR)
0.00	1,607.95	1,915.39	927.11	400.56	20,184.01	4,068.73	4,450.44

RESIDENTIAL AREA SUMMARY LEVEL 1							
RESIDENTIAL UNITS GSF (INCLUDED IN FAR)	RESIDENTIAL AMENITIES (INCLUDED IN FAR)	LOBBY (INCLUDED IN FAR)	RESIDENTIAL COMMON AREA (INCLUDED IN FAR)	RESIDENTIAL UTILITIES (INCLUDED IN FAR)	RESIDENTIAL UTILITIES (NOT INCLUDED IN FAR)	RESIDENTIAL PARKING (NOT INCLUDED IN FAR)	RESIDENTIAL OPEN SPACE (NOT INCLUDED IN FAR)
0.00	8,165.62	6,334.62	4,025.73	1,108.54	52,737.73	6,438.54	13,866.30

RESIDENTIAL UNIT TYPE LEGEND	
	0ST - STUDIO
	1BR - 1 BED JUNIOR
	1BR - 1 BEDROOM
	2BR - 2 BEDROOM
	3BR - 3 BEDROOM

NOTES:
1. REFER TO SHEET A-014 FOR DETAILED OPEN SPACE CALCULATIONS



MENLO PORTAL
MENLO PARK, CA
05-20-19

PLAN LEVEL R-01



STREET LEVEL LANDSCAPE ELEMENTS

STREET TREE: CONSTITUTION

Gleditsia triacanthos 'Shademaster' (Honey Locust)



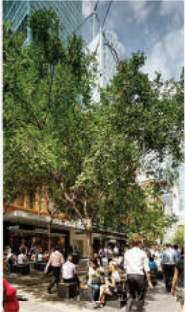
STREET TREE: INDEPENDENCE

Grevillea robusta (Silk Oak)

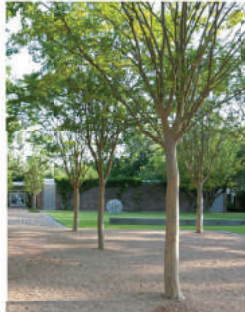


CENTRAL PLAZA TREES

Ulmus parvifolia 'Allee' (Allee Chinese Elm)



Lagerstroemia sp. (Crape Myrtle)



COLUMNAR TREE AT SERVICE ACCESS DRIVE

Acer rubrum 'Armstrong' (Red Maple)



UNDERSTORY PLANTING



BIKE RACKS



TRASH RECEPTACLE

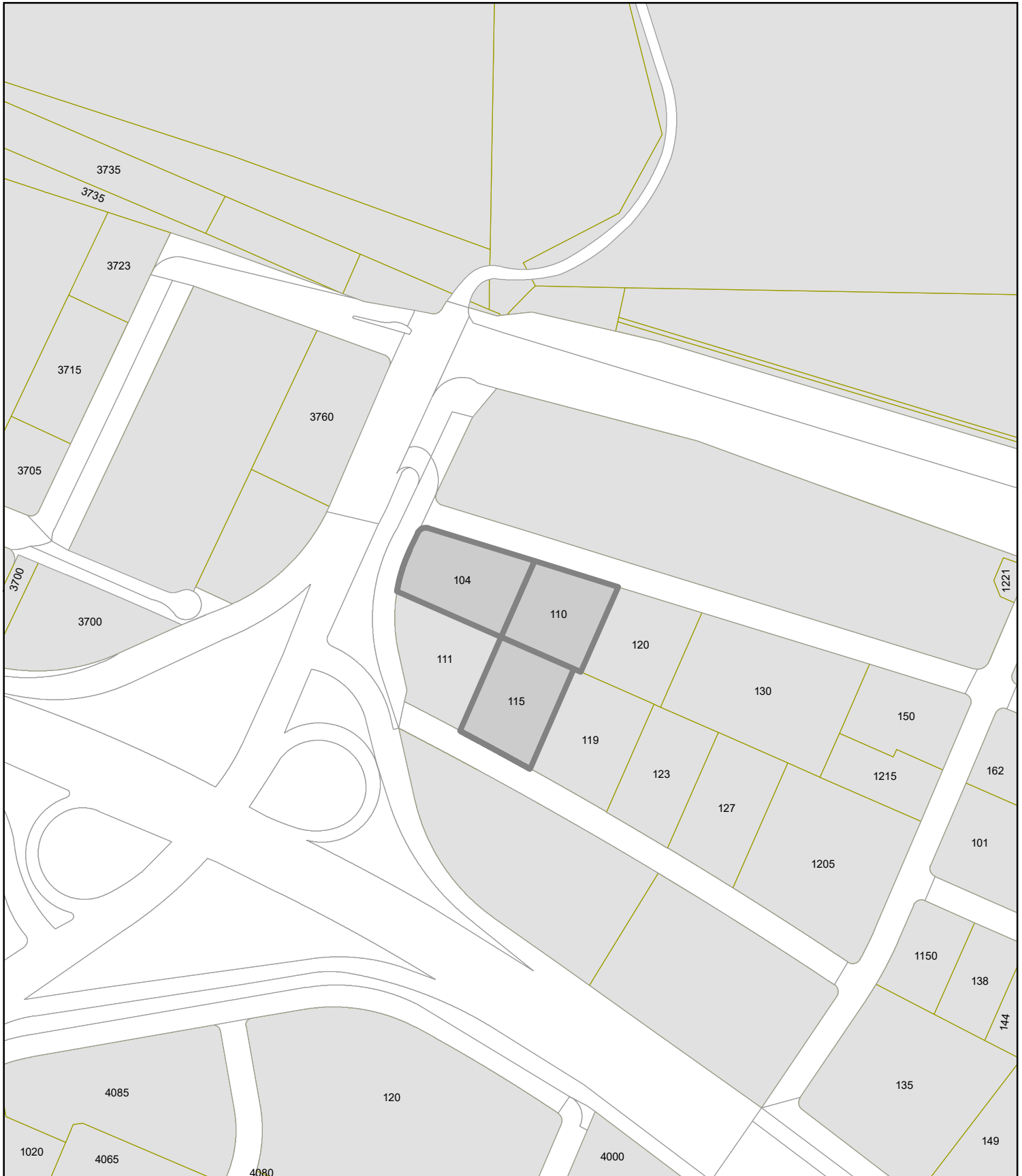


STREET LEVEL LANDSCAPE PLAN - OVERALL VIEW



KEY NOTES

- A. CENTRAL PLAZA
- B. DOG WALKING AREA
- C. SERVICE ACCESS DRIVE
- D. ENTRY RAMP AND STAIR
- E. STREET TREES
- F. BIKE RACKS
(TOTAL 46 BIKE SPACES)



CITY OF MENLO PARK

LOCATION MAP

MENLO PORTAL PROJECT

DRAWN: TAS CHECKED: KMM DATE: 06/24/19 SCALE: 1" = 300' SHEET: 1



THIS PAGE INTENTIONALLY LEFT BLANK



STAFF REPORT

City Council Meeting Date: 8/27/2019
Staff Report Number: 19-174-CC

Consent Calendar: **Authorize the city manager to enter into an agreement with the City of Redwood City for annual maintenance of Atherton Channel**

Recommendation

Staff recommends that the City Council authorize the city manager to enter into a three-year agreement with the City of Redwood City for annual maintenance of Atherton Channel up to the authorized budget amount.

Policy Issues

This proposed action is consistent with City policy and municipal code 12.42.14(3), which contemplates alterations to stream channels to accommodate floodwaters and reduce losses from floods. The agreement amount exceeds the city manager’s authority and requires City Council approval.

Background

Atherton Channel (Channel) drains a 6-square mile watershed and services Atherton, unincorporated San Mateo County, and Redwood City in addition to Menlo Park. The eastern section of the Channel runs parallel along Haven Avenue for approximately 1,000 feet between U.S. Highway 101 and the Bayfront Canal (Canal.) The combined flow from the Channel and Canal empty into Flood Slough through a tide gate control structure, which prevents San Francisco Bay (Bay) water from flowing back into the Canal, which is operated and maintained by the City of Redwood City (Redwood City.) The intended use of the tide gates is to prevent Bay water, via Flood Slough, from flowing back into the Canal. The tide gates close automatically when tide levels in the Bay are high, preventing storm flow from emptying into Flood Slough. The drainage areas along the Canal are subject to frequent flooding due to conveyance issues associated with the capacity of the Canal during large storm events as well as flow restrictions when tide levels in the Bay are high. Chronic flooding occurs along the Channel in the Haven Avenue and Marsh Road area of Menlo Park. The flooding typically results in road closures.

San Mateo County is collaborating with Redwood City, the City of Menlo Park and the Town of Atherton to develop projects that provide flooding relief in the low-lying communities next to Canal and Channel. The proposed improvements of the canal and channel flood protection project, which is in the design and permitting stages, will reduce the impact of flooding in the region. It is anticipated that Redwood City will provide maintenance of the Canal once the project is complete through a cost share agreement with the partnership agencies.

To maintain the cross-sectional capacity of the Channel and minimize the effect of repetitive flooding events, the City has an annual maintenance program to remove debris and vegetation. The work is performed within a portion of the Channel between U.S. Highway 101 and Haven Avenue Bridge (Attachment B.) Cleaning operations occurs in September and October prior to the rainy season.

Analysis

Since 2002, the City has entered into contracts with Redwood City to perform maintenance cleaning operations for the Channel. Redwood City currently maintains Canal and has the equipment and experience necessary to maintain the Channel as well. In the past, they have completed the work in a timely, safe, and efficient manner that minimizes impacts to automotive and pedestrian traffic.

In past years, Redwood City staff performed the maintenance of the Channel outside of normal working hours and duties. The labor hourly rate for the three-year agreement is \$189, which represents Redwood City's fully burdened rate. This hourly rate has remained the same for the past two years. Since maintenance of the Channel began in 2002, City staff has occasionally requested quotes from private contractors to ensure the City receives fair pricing. The bids received have typically been on the order of magnitude more than twice the Redwood City cost. Staff recommends entering into a three year agreement with Redwood City to continue performing maintenance cleaning operations on the Channel.

Impact on City Resources

Maximum annual maintenance costs are delineated in the table below and totals \$135,000 over the next three-years, funded from the general fund. The adopted fiscal year 2019-20 budget includes sufficient funds for the first year. Funding for future years will be included in the fiscal year 2020-21 and fiscal year 2021-22 budgets.

Channel cleaning services	
Fiscal year	Annual cost
2019-20	\$45,000
2020-21	\$45,000
2021-22	\$45,000
Total	\$135,000

Environmental Review

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

Public Notice

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

Attachments

A. Scope of work

A-1. City of Menlo Park's California Department of Fish and Wildlife Streambed alteration agreement

B. Site plan – Channel maintenance

Report prepared by:

Clarence Li, Associate Civil Engineer

Pam Lowe, Senior Civil Engineer

Reviewed by:

Christopher Lamm, Assistant Public Works Director

EXHIBIT A**1. Scope of Work**

The City of Redwood City shall perform removal of debris, trash, vegetation (in-stream and on banks) and roots as part of the annual flood control maintenance of Atherton Channel (Channel) and in accordance with the requirements of the City of Menlo Park's California Department of Fish and Wildlife (CDFW) Streambed Alteration Agreement (SAA) (Exhibit A-1).

The following tasks shall be performed annually for fiscal years 2019-2020, 2020-2021, and 2021-2022:

- A. Remove and dispose of trash and debris embedded within the Channel using hand tools and a clamshell bucket.
- B. Tree and Vegetation Removal:
 - a. Remove living vegetation in the Channel and on the lower half of the creek banks using hand tools. Trees and other woody vegetation shall only be trimmed, not removed, to the extent necessary to allow a specific level of access and for specific types of equipment (e.g. crane, clamshell bucket) or to restore normal streamflow.
 - b. Remove vegetation and mow levee slopes and top of bank using hand tools.
 - c. Remove trees, shrubs, and emergent wetland plants from the Channel if they are below ordinary high water and are restricting the capacity of the Channel or are causing erosion.
 - d. Prune branches overhanging the Channel and impacting water flows. Branches in the lower third of any woody plant and less than three (3) inches in diameter may be trimmed.
 - e. Trim understory ground cover and vines (e.g., mugwort, blackberry, ferns) only as needed.
 - f. Cut off woody and herbaceous plants, fallen trees or trunks lodged in the bed or bank causing flow restriction at the bed or bank invert with small tools and remove with winch and cable. Root structures shall not be excavated or disturbed. No vegetation shall be removed by excavation or cutting off below the soil.
 - g. No equipment shall be operated within the drip line of trees. Protective fencing shall be placed around the drip lines to prevent compaction of the root zone. No bulldozers, backhoes, or other heavy equipment shall be used to remove trees.
- C. Remove and dispose of invasive, non-native plants using hand tools.
- D. All personnel/work crew shall receive educational training on species that may be present at the site before being allowed to work on site. The training will be conducted by a qualified biological monitor or biologist under contract with the City.
- E. Place spoils in areas where it could not enter the stream, riparian or wetland areas. To the extent possible, separate vegetation and recyclable materials.
- F. Allow wildlife to leave the project site unharmed if encountered during maintenance activities.
- G. Coordination of Work:

In order to satisfy specific conditions within the SAA, the City will utilize a biological services firms under separate contract. The general scope of work to be performed by the qualified biologists and biological monitors includes pre-construction bat surveys and reports, construction work area layout, education training, on-site biological construction monitoring and post-construction reporting. The City of Redwood City will need to coordinate their schedule for performing the maintenance cleaning activities with the selected biological services firm to ensure conformance with all requirements in the SAA. This includes providing adequate notice and coordination to ensure availability of the biological services firm to perform a pre-construction bat survey within 30 days of starting on-site work, to layout the work area, and to perform education training and site monitoring during all on-site maintenance cleaning activities.

Protection of Channel:

Pursuant to the SAA, the following measures shall be taken to protect the Channel:

- A. A clamshell bucket and hand tools shall be used to remove vegetation from the Channel.
- B. No equipment shall be placed or operated in the Channel.
- C. Mowing shall only occur on top of bank above ordinary high water level and shall not occur within the Channel or lower bank.
- D. Staging and storage areas for equipment, materials, fuels, lubricants and solvents shall be located away from the wetted areas.
- E. Any equipment or vehicles operated adjacent to the creek areas shall be checked and maintained daily to prevent leaks of materials into the water. Vehicles must be moved 150 feet away from the stream prior to refueling and lubrication.
- F. All workers shall decontaminate waders, boots and other clothing that will come in direct contact with the water to prevent the spread of aquatic diseases. The decontamination of clothing and equipment shall comply with the methods included in the SAA - Avoidance and Minimization Measures Item 2.6 (Exhibit A-1). These methods are summarized below, and one or more of these methods shall be used:
 - a. All equipment shall be dried in an upland location following last aquatic use. The minimum drying time depends on the average daytime temperatures, at least 7 days of drying time for average daytime temperatures more than 80 °F and at least 30 days of drying time for average daytime temperatures less than 80 °F.
 - b. Scalding water wash (at least 140 °F) with varying high and low pressure spray to dislodge pathogens and vegetation.
 - c. Freezing at a temperature less than 32 °F for more than 72 hours.
 - d. Soaking in a hospital-grade disinfectant solution for at least two minutes. Disinfected clothing and equipment shall be thoroughly rinsed in a water bath before entering the stream.

Repeat decontamination is required only if the equipment/clothing is removed from the site, used within a different waterbody, and returned to the project site.

Site Considerations

Staging and access for the project will be from the public right-of-way on Marsh Road and Haven Avenue, adjacent to the Channel. No equipment, with the exception of hand tools and clamshell bucket, shall be allowed within the Channel.

Due to site constraints, traffic control will be required. The City of Menlo Park shall provide traffic control devices (e.g. cones, barricades, warning signs, etc.) and other incidentals to control automobile traffic safety around the sites. The City of Menlo Park shall close the sidewalk next to the Channel and re-direct pedestrian traffic while work is in progress. The City of Redwood City shall handle worksite safety and work equipment traffic control if it is required, which shall comply with all City of Menlo Park standards. Construction operations shall be conducted in such a manner to cause as little inconvenience to vehicle and pedestrian traffic as possible.

The City of Redwood City shall follow all City of Menlo Park NPDES requirements and Best Management Practices (e.g. straw or fiber rolls, storm drain filters) to keep miscellaneous litter and trash out of the Channel and storm drains during work activities. The City of Redwood City shall keep the work area and right-of-way clean of debris from project activities. After removal of spoils, the City of Redwood City shall leave the area in as clean a condition as it was before the work.

Disposal of materials removed from the Channel and banks shall be arranged by the City of Menlo Park.

The City of Redwood City shall provide access to toilet facilities for its workers. There are no public facilities near the work site.

Regulatory Provisions

The City of Menlo Park will provide City of Redwood City personnel with site specific trainings necessary to perform work under the SAA. The City of Menlo Park will also arrange for any monitoring services (e.g. biological monitor) as required by the SAA.

Equipment

The City of Redwood City shall provide the necessary equipment (e.g. hand tools and a ten ton telescopic crane truck with a clamshell bucket) for the project. The City of Menlo Park shall provide five yard dump trucks for vegetation and debris removal from job site. However, in the event of an unforeseen equipment failure, the City of Redwood City shall approach the City of Menlo Park at that time to discuss project alternatives for the scope of work to be completed.

Scheduling and Hours

The City of Menlo Park shall initiate scheduling with the City of Redwood City each year. The City of Menlo Park shall provide the City of Redwood City with as much advance notice as possible to arrange for personnel and equipment.

The period in which to conduct project activities shall follow the timeline specified in the SAA. The allowable working hours will be 9:00 AM to 3:00 PM on weekdays, 6:00 AM to 6:00 PM on weekends, except where otherwise specified by the City of Menlo Park. Project activities shall

span between four (4) to six (6) working days each year, depending on site conditions. Working days are anticipated to be between ten (10) and twelve (12) hours in length.

2. Payment Terms

The City of Redwood City shall provide the services outlined herein on an hourly basis not to exceed \$135,000 for the length of the agreement, or an annual amount delineated in the table below. Fees will be billed based on actual hours worked per the rate schedules delineated below.

Labor Rates

<i>Classification</i>	<i>Hourly Rate</i>
Administrative Oversight	\$189
Lead PW Maintenance Worker	\$189
Equipment Operator	\$189
PW Maintenance Worker	\$189

Equipment Rates

The City of Redwood City’s equipment will be billed according to the Caltrans Equipment Rental Rates and Labor Surcharge fee schedule for the time period in which work activities are performed. Caltrans rental rates are available online at <http://www.dot.ca.gov/hq/construc/equipmnt.html>.

Anticipated equipment include:

- (1) Clamshell bucket
- (1) 10 Ton Telescopic Crane
- (1) Utility Truck
- (4) Hedge/Brush Trimmers

Maximum Annual Amount

<i>Fiscal Year</i>	<i>Maximum Annual Amount</i>
2019-2020	\$45,000
2020-2021	\$45,000
2021-2022	\$45,000



State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
7329 Silverado Trail
Napa, CA 94558
(707) 944-5500
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



September 24, 2015

Azalea Mitch
City of Menlo Park, Engineering Division
701 Laurel Street
Menlo Park, California 94025

Subject: Final Lake or Streambed Alteration Agreement
Notification No. 1600-2013-0356-R3
Atherton Channel Flood Control Maintenance

Dear Ms. Mitch:

Enclosed is the final Streambed Alteration Agreement ("Agreement") for the Atherton Channel Flood Control Maintenance project ("Project"). Before the Department may issue an Agreement, it must comply with the California Environmental Quality Act ("CEQA"). In this case, the Department, acting as a lead agency, determined your project is exempt from CEQA and filed a notice of exemption ("NOE") on September 24, 2015.

Under CEQA, filing a NOE starts a 35-day period within which a party may challenge the filing agency's approval of the project. You may begin your project before the 35-day period expires if you have obtained all necessary local, state, and federal permits or other authorizations. However, if you elect to do so, it will be at your own risk.

If you have any questions regarding this matter, please contact Suzanne DeLeón, Environmental Scientist at (831) 440-9433 or suzanne.deleon@wildlife.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads 'CJ Weightman'.

Craig J. Weightman
Environmental Program Manager
Bay Delta Region

cc: Lieutenant James Ober

Conserving California's Wildlife Since 1870

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
BAY DELTA REGION
7329 SILVERADO TRAIL
NAPA, CALIFORNIA 94558
(707) 944-5500
WWW.WILDLIFE.CA.GOV



STREAMBED ALTERATION AGREEMENT
NOTIFICATION No. 1600-2013-0356-R3
Atherton Creek

CITY OF MENLO PARK
ATHERTON CHANNEL FLOOD CONTROL MAINTENANCE

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and the City of Menlo Park (Permittee) as represented by Azalea Mitch.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified CDFW on September 6, 2013 that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, CDFW has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement

PROJECT LOCATION

This Agreement authorizes routine maintenance in areas of Atherton Creek that fall under the jurisdiction and responsibility of the Permittee. Atherton Creek is tributary to Bayfront Canal which flows into Flood Slough and ultimately into San Francisco Bay; in Redwood City, State of California.

Project locations include:

Site 1. Atherton Creek between Highway 101 and Haven Avenue; Latitude 37°29'06.83"N, Longitude 122°10'54.50"W; adjacent to Assessor's Parcel Number (APN): 055-231-060 and including APN 055-232-110.

Site 2. Atherton Creek between Marsh Road and Rolison Road; Latitude 37°28'54.02"N, Longitude 122°11'01.07"W; adjacent to APNs: 055-251-250 and 055-251-350.

PROJECT DESCRIPTION

As part of routine maintenance activities, to maintain channel capacity and prevent flooding of adjacent commercial and industrial areas in the vicinity of Atherton Creek, the project includes removal of sediment, in-stream vegetation, vegetation on the bank, and debris and trash within the channel.

Routine maintenance activities authorized under this Agreement are limited to the following:

- *Removal of Sediment in the Stream Channel Bottom and around Bridges, Culverts, Storm Drain Outlets and Water Diversion Inlets* – Utilizing a clamshell bucket for removal of sediment in a concrete-lined portion and an earthen bottom portion of Atherton Creek to maintain channel capacity;
- *Removal of Obstructions around Structures and Facilities* – Utilizing hand tools and a clamshell bucket for removal of trash and debris embedded within the stream channel and utilizing hand tools where clamshell bucket cannot reach;
- *Vegetation Management within the Channel and Lower Stream Bank* - Utilizing hand tools for removal of living vegetation in the channel and on the lower half of the creek banks. Trees and other woody vegetation shall only be trimmed, not removed;
- *Vegetation Management on Upper Half of Bank and Top of Levee* - Utilizing hand tools for removal of vegetation and mowers for mowing levee slopes and top of bank;
- *Removal of Invasive, Non-native Plants* – Removal of invasive, non-native plants utilizing hand tools.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: saltmarsh harvest mouse, a species listed as Endangered under both the Endangered Species Act (ESA) and the California Endangered Species Act (CESA) and fully protected under FGC; saltmarsh common yellowthroat, designated as a Species of Special Concern; other migratory, foraging and nesting birds; bats; water quality; and temporary impacts to 950 linear feet of emergent vegetation.

The adverse effects the project could have on the fish or wildlife resources identified

above, without implementation of the Measures to Protect Fish and Wildlife Resources specified below, include: increase in sediment transport; increase in turbidity during project activities; reduction in water quality during project activities; direct take of species during project activities; change in gradient and cross-section of channel and disruption to nesting birds and other wildlife.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify CDFW if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that CDFW personnel may enter the project sites at any time to inspect routine maintenance activities performed and to verify compliance with this Agreement.
- 1.5 Additional Measures. As a result of any field inspection, CDFW may require that additional measures be applied to specific activities to protect sensitive biological resources. Such measures may be amended into this Agreement with the agreement of both parties, or if an exception to authorized activities is identified, Permittee may be asked to submit separate written notification to CDFW pursuant to Measure 1.7.

- 1.6 Authorized Routine Maintenance Activities. Only those activities specifically described in the Project Description shall be conducted under this Agreement.
- 1.7 Exceptions to Authorized Activities. Permittee shall submit separate written notification (Forms FG 2023 and FG 2024) pursuant to Section 1602 of the FGC, together with the required fee prescribed in the CDFW Streambed Alteration Agreement fee schedule, and otherwise follow the normal notification process prior to the commencement of work activities in all cases where one or more of the following conditions apply:
- The proposed work does not meet the criteria established for routine maintenance activities in the Project Description of this Agreement;
 - The nature of the proposed work is substantially modified from the work described in the Project Description of this Agreement;
 - CDFW advises Permittee that conditions affecting fish and wildlife resources have substantially changed at a specified work site or that such resources would be adversely affected by the proposed maintenance activity; and/or
 - The proposed work would adversely impact a State of California (State) Species of Special Concern or State or federally listed rare, threatened, endangered or candidate species or its habitat.
- 1.8 Traversing Another Property. To the extent that any provisions of this Agreement provide for activities that require Permittee to traverse another owner's property, such provisions are agreed to with the understanding that Permittee possesses the legal right to so traverse. In the absence of such right, any such provision is void.
- 1.9 Unauthorized Take. This Agreement does not authorize the take, including incidental take, of any State or federally listed threatened or endangered listed species, or of species that are otherwise protected under FGC. Permittee may be required, as prescribed in the California and U.S. Endangered Species Acts, to obtain take coverage for State and federally listed species prior to commencement of the project. Any unauthorized take of listed species may result in prosecution and nullification of this Agreement.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

- 2.1 **Work Location Restriction.** At Site 1, to protect saltmarsh harvest mouse and other saltmarsh species, routine maintenance activities shall be limited to Atherton Creek upstream of the bridge at the intersection of 3723 South Haven and Bayfront Expressway.
- 2.2 **Seasonal Work Period.** To protect fish and wildlife and their habitats, work within the stream and riparian zone shall be limited to April 15 to October 31.
 - 2.2.1 **Work Period Modification.** If Permittee needs more time to complete project activities, work may be authorized outside of the work period and extended on a day-to-day basis by CDFW representative, Suzanne Deleon, at suzanne.deleon@wildlife.ca.gov, or if unavailable, through contact with the CDFW Bay Delta Regional Office by mail, phone (707-944-5500) or fax (707-944-5553). Permittee shall submit a written request for a work period variance to CDFW for approval at least five (5) calendar days prior to November 1. The work period variance request shall: 1) describe the extent of work already completed; 2) detail the activities that remain to be completed; 3) detail the time required to complete each of the remaining activities; and 4) provide photographs of both the current work completed and the proposed site for continued work. Work period variances are issued at the discretion of CDFW. CDFW will review the written request to work outside of the established work period and may require additional measures to protect fish and wildlife resources as a condition for granting the variance. Any additional measures shall be made part of this Agreement.
- 2.3 **Work Period in Dry Weather Only.** Work within the stream and riparian zone shall be restricted to periods of no or low stream flow, low rainfall (less than ¼" per 24 hour period) and dry weather as allowed during the work period specified in Measure 2.1.
- 2.4 **Weather Forecasts.** Precipitation forecasts and potential increases in stream flow shall be considered when planning construction activities. Permittee shall monitor the 72-hour forecast from the National Weather Service (NWS; <http://www.nws.noaa.gov>). When there is a forecast of more than 40% chance of rain, or at the onset

of unanticipated precipitation, the Permittee shall remove all equipment and shall implement erosion and sediment control measures and all project activities shall cease.

- 2.5 **No Equipment in Channel.** No equipment shall be operated in a flowing stream at any time except as may be necessary to construct the dewatering system or divert water flow around the work site.
- 2.6 **Decontamination of Clothing and Equipment.** To prevent the spread of aquatic diseases, such as ranavirus, and invasive aquatic species, such as quagga mussel, Permittee shall decontaminate waders, boots and other clothing that will come in direct contact with the water. Decontamination of clothing and equipment shall be done through one or more of the following methods:
- Drying equipment in an upland location following last aquatic use. If average daytime temperatures exceed 80° F, drying times shall be at least 7 days. If average daytime temperatures are below 80° F, drying times shall be at least 30 days;
 - Scalding water wash (at least 140° F) with varying high and low pressure spray to dislodge pathogens, vegetation, and contaminated sediment;
 - Freezing at a temperature of less than 32° F for more than 72 hours; and/or
 - Soaking in a hospital-grade disinfectant solution for at least two minutes (or longer, based on product directions). To avoid harm to non-target species, disinfected clothing and equipment shall be thoroughly rinsed in a water bath before entering the stream.

Repeat decontamination is required only if the equipment/clothing is removed from the site, used within a different waterbody, and returned to the project site. Decontamination shall take place in an upland location, and any chemicals used during decontamination shall be prevented from entering water bodies or stormwater drains.

- 2.7 **CDFW-Approved Qualified Biologist(s) and Biological Monitor(s).** Permittee shall submit to CDFW for written approval, the names and resumes of all qualified biologists and biological monitors involved in conducting surveys and/or monitoring work.

A qualified biologist is an individual who shall have a minimum of five years of academic training and professional experience in biological sciences and related resource management activities with a minimum of two years conducting surveys for each species that may be present within the project area.

A biological monitor is an individual who shall have academic and professional experience in biological sciences and related resource management activities as it pertains to this project, experience with construction-level biological monitoring, be able to recognize species that may be present within the project area, and be familiar with the habits and behavior of those species.

- 2.8 **Nesting Bird Survey.** If project activities are scheduled during the nesting season of raptors and migratory birds, a focused survey for active nests of such birds shall be conducted by the CDFW-approved qualified biologist within 15 days prior to the beginning of project-related activities. Surveys shall be conducted in all suitable habitat located at project work sites and in staging and storage areas. The minimum survey radii surrounding the work area shall be the following: i) 250 feet for passerines; ii) 500 feet for other small raptors such as accipiters; iii) 1,000 feet for larger raptors such as buteos. The bird survey methodology and the results of the survey shall be submitted to CDFW prior to commencement of project activities.

Nesting seasons are typically defined as followed: i) March 15 to August 30 for smaller bird species such as passerines; ii) February 15 to September 15 for raptors.

- 2.9 **Active Nests.** If active nests are found, Permittee shall consult with CDFW and the USFWS regarding appropriate action to comply with the Migratory Bird Treaty Act of 1918 and the FGC. If a lapse in project-related work of 15 days or longer occurs, another focused survey shall be conducted before project work is reinitiated. If an active nest is found, Permittee shall consult with CDFW and the USFWS prior to resumption of project activities.

- 2.10 **Active Nest Buffers.** Active nest sites shall be designated as "Ecologically Sensitive Areas" (ESA) and protected (while occupied) during project activities with the establishment of a fence barrier surrounding the nest site. The typical minimum distances of the protective buffers surrounding each identified ESA are the following: i) 1,000 feet for large raptors such as buteos; ii) 500 feet for small raptors such as accipiters; iii) 250 feet for passerines. A biological monitor or qualified biologist shall monitor the behavior of the birds

(adults and young, when present) at the nest site to ensure that they are not disturbed by project-related activities. Nest monitoring shall continue during project-related construction work until the young have fully fledged, are no longer being fed by the parents and have left the nest site, as determined by a biological monitor.

- 2.11 Nesting Habitat Removal or Modification. No trees, shrubs or wetland habitat shall be disturbed that contain active bird nests until all eggs have hatched, and young have fully fledged (are no longer being fed by the adults, and have completed left the nest site). To avoid potential impact to tree or shrub-nesting birds, any trimming or pruning of trees or shrubs shall be conducted during the time period of September 16 to February 14. No habitat removal or modification shall occur within the ESA fenced nest zone even if the nest continues to be active beyond the typical nesting season for the species (refer to Measure 2.8), until the young have fully fledged and will no longer be adversely affected by the project.
- 2.12 Bat Surveys. The qualified biologist shall survey the bridges for bats within a minimum of 30 days prior to the beginning of Project construction work planned either on or within 50 feet of the Bridge. The biologist shall make an effort to identify the bat species and its use of the bridge (maternity, bachelor, day roosting), but shall avoid disturbing bats during surveys. The pallid bat forms maternity or bachelor colonies from spring (March to May) until October, and although the young are weaned at 6 to 8 weeks of age, they are not self-sufficient until the fall. Bats may hibernate in the same structure as the spring/summer roost or in another nearby location. Permittee or qualified biologist shall notify CDFW within 24 hours if bats are found during surveys. CDFW may submit additional written avoidance, minimization and mitigation measures if bats are found in the project area. Those additional measures shall be considered part of this Agreement.
- 2.13 Bat Protection. Bats shall not be disturbed by any project-related activities without specific notice to and consultation with CDFW. Project activities shall not start under the bridges, or within 50 feet of the bridges, if bats are found nesting/roosting within them. If bats are documented using the bridge or bridges, the qualified biologist shall conduct weekly surveys until the bats have left the area for the fall/winter season.
- 2.14 Stream Diversion. If water is present in the channel during project activities, the water shall be diverted around the work area to isolate it. To isolate the work area, water tight coffer dams shall be constructed upstream and downstream of the work area and water

diverted through a suitably sized pipe, from upstream of the upstream coffer dam and discharged downstream of the downstream coffer dam. Cofferdams shall be constructed of a non-erodible material which does not contain soil or fine sediment. Cofferdams and the stream diversion system shall remain in place and functional throughout the construction period. If, the coffer dams or stream diversion fail, they shall be repaired immediately. Normal flow shall be restored to the affected stream immediately upon completion of work at that location.

- 2.15 Water Surface Elevation. Flows to downstream reaches shall mimic natural flow patterns. Said flows shall be of sufficient quality and quantity and appropriate temperature to support fish and other aquatic life both above and below the diversion structure. During dewatering of the channel, the decrease in water surface elevation (WSE) shall be controlled such that WSE does not change at a rate that increases turbidity to the creek that could be deleterious to aquatic life and the likelihood of stranding aquatic life up- and downstream of the creek.
- 2.16 Check for Stranded Aquatic Life. The biological monitor shall check daily for stranded aquatic life as the water level in the dewatering area drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered areas. Capture methods may include fish landing nets, dip nets, buckets and by hand. Captured aquatic life shall be released immediately in the closest body of water adjacent to the work site. This measure does not allow for the take or disturbance of any State or federally listed species.
- 2.17 Designation of Work Area. Prior to project activities, a biological monitor shall clearly mark/flag or erect temporary construction fencing to designate the work area and to delineate the areas that shall be avoided. The biological monitor shall clearly mark/flag all trees within the designated work area that shall be avoided. Flagging and or temporary construction fencing shall be removed immediately after the completion of construction work.
- 2.18 Trimming of Vegetation. Trimming is defined herein as the removal of vegetation to the extent necessary to allow a specific level of access and for specific types of equipment (e.g. crane, clambucket) or to restore normal streamflow. There shall be no vegetation removal in excess of what is necessary to allow the level of access needed or to restore normal streamflow. Trees, shrubs and emergent wetland plants may be removed from natural channels if they are below ordinary high water (OHW) and are restricting the

capacity of the stream channel or are causing erosion or flooding. Branches and/or limbs overhanging the channel and impacting water flows shall be properly pruned. Only those branches in the lower third of any woody plant and less than three (3) inches in diameter may be trimmed to accommodate maintenance activities. Understory ground cover and vines, such as mugwort, blackberry, and ferns, may be trimmed only as needed to accommodate maintenance activities. No bulldozers, backhoes, or other heavy equipment shall be used to remove tree branches or trees or remove sediment. No vegetation shall be removed by excavation or cutting off below the soil. All pruned material shall be removed from the area and properly disposed of.

- 2.19 Leave Wildlife Unharmd. If any wildlife is encountered during routine maintenance activities, said wildlife shall be allowed to leave the Project site unharmed.
- 2.20 Existing Access Roads. Access to the project sites shall be via existing roads and access ramps. The crane truck with bucket or any other heavy equipment shall be positioned on the existing paved road located outside the top-of-bank.
- 2.21 Dripline Protection. No equipment shall be operated within the dripline of trees. Protective fencing shall be placed around the driplines of those trees to prevent compaction of the root zone.
- 2.22 Spoils. Spoil shall not be placed where it could enter the stream, riparian or wetland areas. Spoil shall not be placed over riparian or wetland vegetation except as specifically noticed to and accepted by CDFW.
- 2.23 Education Session before Commencement of Work. The biological monitor or qualified biologist shall conduct an education session on species that may be present at the project work site. The training shall consist of basic identification of the species, their basic habits, how they may be encountered in the work area, and procedures to follow when they are encountered. Any personnel joining the work crew later shall receive the same training before beginning work. The penalties for noncompliance of conditions in this Agreement shall be relayed to all project personnel.
- 2.24 Stop Work Authority. The biological monitor or qualified biologist shall have the responsibility and authority of stopping the project if any crews or personnel are not complying with the provisions outlined in this Agreement.

- 2.25 **Change of Conditions.** If, in the opinion of CDFW, conditions arise, or change, in such a manner as to be considered deleterious to the stream or wildlife, operations shall cease until corrective measures approved by CDFW are taken.
- 2.26 **Limitations on Sediment Removal.** Annual sediment removal at the two sites shall be the following:
- **Site 1. Haven Avenue to Bayshore.** In 2015, 2017 and 2019, Permittee shall be authorized to remove up to 600 cubic yards (cy) of sediment as one continuous activity within the 1,000 linear-foot (lf) reach. Removal equipment shall be staged on the existing road located outside top-of-bank.
 - **Site 2. Concrete-lined channel between Marsh Road and Rolison Road.** In 2015, 2017 and 2019 Permittee shall be authorized to remove 200 cy of sediment as one continuous activity; limited to 750 lf.
- 2.27 **Limitations on Sediment Removal around Bridges, Culverts, Storm Drains and Water Diversion Inlets.** Annual sediment removal by hand tools around these structures shall not exceed 50 cy per site.
- 2.28 **Limitations on Bank Stabilization/Bank Repair.** This Agreement does not authorize placement of bank or channel fill, such as imported soils, riprap, etc.
- 2.29 **Limitations on Vegetation Removal.** The disturbance or removal of vegetation shall not exceed the minimum necessary to prevent potential flooding. Precautions shall be taken to avoid other damage to vegetation by work crew or equipment. Woody and herbaceous plants, fallen trees, or trunks or limbs lodged in the bed or bank causing flow restriction shall be cut off at the bed or bank invert with small tools and removed with winch and cable or other equipment operated from top of bank. Root structures are not to be excavated or disturbed.
- 2.29.1 **Mowing.** Mowing shall only occur on top of bank above Ordinary High Water and shall not occur within the stream channel or lower bank.
- 2.29.2 **Limitation of Vegetation Removal in the Earthen Channel.** Hand tools shall be used to weed or trim vegetation to clear the earthen channel.
- 2.29.3 **Embedded Objects.** Objects embedded/anchored in the

bank, such as tree stumps, shall not be removed during periods of heavy flow if removal would result in release of sediment into the channel. However, protruding objects that could capture additional debris and result in obstruction of the channel (e.g. the branches and trunk of a downed tree) may be trimmed. If an embedded object must be removed to prevent a debris jam, Best Management Practices (BMPs) (See Measure 2.33) shall be used to prevent release of sediment into the channel, and the bank shall be reseeded, re-vegetated, mulched and/or covered with erosion-control fabric following removal.

- 2.29.4 No Tree Removal. No trees over 4 inches diameter at breast height (DBH) shall be removed. Exceptions require the prior written approval of a CDFW representative. Any trees removed shall be replaced according to Measure 2.42 and exposed/ disturbed areas shall be re-vegetated as described in Measure 2.34.
- 2.30 Disposal of Invasive Plant Material. Invasive plant material removed during work activities shall be bagged and appropriately incinerated or disposed of in a landfill or permitted composting facility.
- 2.31 Removal of Native Material. Except as explicitly described in this Agreement, the removal of native soils, rock, gravel, vegetation, and vegetative debris from the stream bed or stream banks is prohibited.
- 2.32 Removal of Trash and Debris. Permittee shall remove all raw construction materials and wastes from work sites following the completion of maintenance activities. Food-contaminated wastes generated during work shall be removed on a daily basis to avoid attracting predators to work sites. All temporary fences, barriers, and/or flagging shall be completely removed from work sites and properly disposed of upon completion of maintenance activities. Permittee or its contractors shall not dump any litter or construction debris within the riparian/stream zone.
- 2.33 Erosion Control Best Management Practices (BMPs). All exposed soils within the work area shall be stabilized immediately following the completion of earthmoving activities to prevent erosion into the stream channel. Erosion control BMPs, such as silt fences, straw hay bales, gravel or rock lined ditches, water check bars, and broadcasted straw shall be used. Erosion control fabrics shall be constructed of biodegradable materials, such as coir or jute, unless otherwise authorized by CDFW. Erosion control BMPs shall be monitored during and after each storm event for effectiveness.

Modifications, repairs and improvements to erosion control BMPs shall be made as needed to protect water quality. At no time shall silt laden runoff be allowed to enter the stream or directed to where it may enter the stream.

- 2.34 **Treat exposed areas.** All exposed/disturbed areas and access points within the stream zone left barren of vegetation as a result of the project activities shall be restored by seeding with a blend of native erosion control propagules (seeds, cuttings and/or divisions) of locally-collected native plants. Local native grass species include meadow barley (*Hordeum brachyantherum* ssp. *californicum*), blue wildrye (*Elymus glaucus*), California brome (*Bromus carinatus*), creeping wildrye (*Elymus triticoides*), California oatgrass (*Danthonia californica*) and California melic (*Melica californica*). Locally native wildflower and/or shrub seeds may also be included in the seed mix. Re-vegetation shall be completed as soon as possible after construction activities in those areas cease. Seeding placed after October 15 must be covered with broadcast straw, jute netting, or similar erosion control blanket.
- 2.35 **Erosion Control Methods.** Other disturbed areas around the creek shall be revegetated with propagules (seeds, cuttings, divisions) of locally-collected native plants. If locally collected native plants are not available, sterile or short-lived revegetation plants shall be used (e.g. cereal barley, Regreen). Disturbed areas shall be protected with correctly installed erosion control measures (e.g. jute, certified weed free straw, coconut fiber, or coir logs). Materials containing monofilament or plastic or similar material containing netting shall not be used within the project area due to documented evidence of amphibians and reptiles becoming entangled or trapped in such material.
- 2.36 **Prohibited Plant Species.** Permittee shall not plant, seed, or otherwise introduce invasive plant species. Prohibited exotic plant species include those categorized as "High" and "Moderate" in the California Invasive Plant Council's Inventory Database, which is accessible at: <http://www.cal-ipc.org/paf/>.
- 2.37 **Staging and Storage Areas.** Building materials and/or construction equipment shall not be stockpiled or stored where they could be washed into the water or where they will cover aquatic or riparian vegetation.
- 2.38 **Equipment over Drip-pans.** Staging and storage areas for equipment, materials, fuels, lubricants and solvents shall be located away from the wetted areas. Stationary equipment such as motors,

pumps, generators, compressors and welders, located within or adjacent to the creek shall be positioned over drip-pans.

- 2.39 Maintenance of Vehicles. Any equipment or vehicles driven and/or operated adjacent to the creek areas shall be checked and maintained daily to prevent leaks of materials that if introduced to water could be deleterious to aquatic life, wildlife or riparian habitat. Vehicles must be moved away 150 feet from the stream prior to refueling and lubrication.
- 2.40 Hazardous Materials. Any hazardous or toxic materials that could be deleterious to aquatic life that could be washed into state waters or its tributaries shall be contained in water tight containers or removed from the project site.
- 2.41 Debris and Waste Disposal. Permittee/ contractor shall not dump any litter or construction debris within the project area. All such debris and waste shall be picked up daily and properly disposed of at an appropriate site.
- 2.42 Tree Replacement. If trees need to be removed for routine maintenance activities and removal is approved by CDFW, trees shall be replaced at the following ratios (replacement trees to removed trees):
- Oaks – 6:1 ratio
 - For native trees other than oaks - 3:1 ratio
 - Non-native trees – 2:1 ratio.

Replacement trees shall consist of 5-gallon saplings, stakes, or other suitable nursery stock and shall be native species adapted to the lighting, soil and hydrological conditions at the replanting site. If replanting within the work area is infeasible due to slope steepness or other physical constraints, replacement trees may be planted at an alternate location along the stream corridor. Trees shall be replaced by December 31 of the year impacts occur in a location that is not subject to future maintenance or construction work. Permittee shall contact CDFW a minimum of 30 days prior to replanting work for review and written approval of the replanting site.

- 2.43 Re-vegetation Survivorship and Monitoring. To ensure a successful re-vegetation effort, all plants shall be monitored and maintained as necessary for eight (8) years. The following success criteria shall apply:

- All plantings shall have a minimum of 80% survival at the end of 8 years.
- Vegetation cover shall consist of no more than 10% non-native species.
- If the survival and/or cover requirements are not meeting these goals, Permittee is responsible for replacement planting, additional watering, weeding, invasive exotic eradication, or any other practice, to achieve these requirements. Replacement plants shall be monitored with the same survival and growth requirements for five years after planting.

Re-vegetation monitoring shall be conducted annually for a period of eight (8) years to determine whether these goals have been met. If the survival and/or cover requirements are not projected to meet these goals, based on annual monitoring, Permittee is responsible for replacement planting, additional watering, weeding, invasive exotic eradication, or any other practice(s) that would to achieve these requirements.

3. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 3.1 **Notification of Proposed Activities.** Permittee shall provide CDFW written notification of proposed routine maintenance activities to be performed in the upcoming year by March 15 each year. Notification reports shall describe the project location, general topography, hydrological features, vegetative cover within 50 feet of the work area, length and width of impact area, cubic yards of sediment to be removed and a detailed description of proposed modifications to the banks and/or channel. Reports shall be submitted to CDFW regardless of whether work is proposed.

CDFW shall append annual notification reports of proposed maintenance activities to this Agreement. For streamlined tracking, Permittee shall label annual notification reports according to the following convention: Exhibit C-[year] (e.g. Exhibit C-2015, Exhibit C-2016).

- 3.2 **Annual Reports for Completed Projects.** On an annual basis, Permittee shall provide CDFW written notification of maintenance projects completed. Annual reports shall include the project identification (site name and location), a brief project description, and the appropriate fee from the current CDFW Streambed Alteration

Agreement Fee Schedule for work completed under this Agreement based upon the number of projects completed in the reporting period. The annual report is due on December 15 of each year. A report shall be submitted to CDFW regardless of whether work was completed. CDFW may terminate this Agreement if reports and fees are not submitted by this deadline.

- 3.3 Bird and Bat Survey Methods and Results. Permittee shall submit the bird and bat survey methodology and results to CDFW prior to commencement of project activities. Refer to Notification Number 1600-2013-0356-R3 when submitting the report to CDFW.
- 3.4 List of Nonnative Species. Permittee shall submit to CDFW within two weeks of project completion, a list of location and species of any non-native invasive species found in the project area.
- 3.5 Notification to the California Natural Diversity Database (CNDDDB). If any listed, rare, or special status species are detected during project surveys or on or around the project site during project activities, the Permittee shall submit CNDDDB Field Survey Forms to CDFW in the manner described at the CNDDDB website (http://www.CDFW.ca.gov/biogeodata/cnddb/submitting_data_to_cnddb.asp) within 14 working days of the sightings. Copies of such submittals shall also be submitted to the CDFW regional office as specified below.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

To Permittee:

Azalea Mitch
City of Menlo Park, Engineering Division
701 Laurel Street
Menlo Park, California 94025
Phone (650) 330-6742
Fax (650) 327-5497
aamitch@menlopark.org

To CDFW:

California Department of Fish and Wildlife
Bay Delta Region
7329 Silverado Trail
Napa, California 94558
Attn: Lake and Streambed Alteration Program – Suzanne DeLeón
Notification #1600-2013-0356-R3
Fax (707) 944-5553
Suzanne.DeLeon@wildlife.ca.gov

LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

ENFORCEMENT

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 et seq. (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and Permittee. To request an amendment, Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with FGC 1605(b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code, § 1605, subd. (f)).

EFFECTIVE DATE

The Agreement becomes effective after January 1, 2014 and CDFW's signature, which shall be: 1) after Permittee's signature; 2) after CDFW complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at http://www.wildlife.ca.gov/habcon/ceqa/ceqa_changes.html.

TERM

This Agreement shall expire on **December 31, 2019** unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a) (2) requires.

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

AUTHORIZATION

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with FGC section 1602.

CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

FOR CITY OF MENLO PARK



Azalea Mitch
Permittee



Date

FOR DEPARTMENT OF FISH AND WILDLIFE



Craig J. Weightman
Environmental Program Manager



Date

Prepared by: Suzanne DeLeón
Environmental Scientist

Date Sent: December 13, 2013; September 11, 2015

**EXHIBIT A
DEFINITION OF TERMS**

As used herein and for purposes of the Agreement

Debris: non-living vegetative or woody matter, trash, concrete rubble, etc. This definition does not include living vegetation.

Emergency project: is defined in the State Fish and Game Code, section 1600.

Heavy equipment: any equipment used that is larger than a pick-up truck.

Natural channel: a stream or watercourse that has not been modified by human acts such as lining the channel with cement, or creating an artificial channel for drainage or flood control. A natural channel may have in it erosion control structures, culverts or other minor modifications.

Project: a routine maintenance activity performed by Permittee during a given year. Each annual activity at one location shall be construed as one project for fee purposes. A project does not include minor debris removal by hand such as a shopping cart or a bag of garbage.

Special-status species: any species identified as a candidate or sensitive species in local or regional plans, policies or regulations, or listed by CDFW or the U.S. Fish and Wildlife Service. Plants on Lists 1A, 1B, or 2, published by the California Native Plant Society, are also considered special-status species for the purposes of this Agreement.

Authorized Activities:

A. Vegetation Management:

- A.1. Woody and Herbaceous Vegetation.** Parts of woody and herbaceous plants, fallen trees, or trunks and limbs lodged in the bed or bank of the creek may be removed if such vegetation is causing streamflow restriction. Woody vegetation may be removed with a winch and cable. The main body of any heavy equipment used shall be operated from the top of bank. Root structures shall not be disturbed and the debris shall be disposed of at a location where it cannot re-enter State waters.
- A.2. Removal of Native Trees and Shrubs.** Trees and shrubs (dead, dying or live) that are less than four (4) inches diameter at breast height (dbh) may be removed if these trees are located below the Ordinary High Water Mark of the Channel, and are restricting flow capacity and causing erosion or flooding.
- A.3. Removal of Non-native Trees and Shrubs.** Non-native shrubs such as giant reed (*Arundo donax*), Scotch broom (*Genista monspessulana*), French broom (*Cytisus scoparius*) and pampas grass (*Cortaderia selloana*) may be removed in order to maintain channel capacity and improve native riparian habitat. Non-native trees such as *Eucalyptus* spp. and tree-of-heaven (*Ailanthus altissima*) that are less than four (4) inches dbh may also be removed. The root mass of any tree or shrub removed shall be left in place to maintain bank stability.
- A.4. Habitat Enhancement.** Channel habitat may be enhanced with activities such as planting of native trees and shrubs that are appropriate to the local area and maintenance of the enhancement plantings.

B. Debris and Sediment Removal

- B.1. Removal Quantities.** A one-time removal of a large quantity of sediment and debris, as stated below, at each site in the channel and around the bridges and culverts. After this one time removal, annual removal of small amounts of debris and sediment from within the channel and around bridges and culverts according to the following limits:
- B.1.1. Site 1, Haven Avenue to Bayshore.** Permittee shall be authorized to remove up to 600 cubic yards (cy) of sediment as one continuous activity within the 1000 linear-foot (lf) reach in years 2015, 2017 and 2019.
- B.1.2. Site 2, Concrete-lined channel between Marsh Road and Rolison Road.** Permittee shall be authorized to remove up to 200 cy of sediment as one continuous activity; limited to 750 lf of the creek channel.

- B.2. Sensitive Fisheries.** Notwithstanding the foregoing, no routine maintenance shall be conducted in watercourses having sensitive fisheries without prior consultation with CDFW, at which time CDFW shall evaluate the project and add any additional conditions that it might see fit for the preservation of the resource.

This RMA shall be amended as a list of sensitive areas is developed.

C. Temporary Water Diversions

- C.1. Temporary water diversions** associated with other related maintenance activities using structures such as cofferdams not exceeding 3 feet in height or sumps, with or without pumps, provided that all water is discharged into a silt control structure before release and provided that the channel is restored to its original configuration after work is completed.

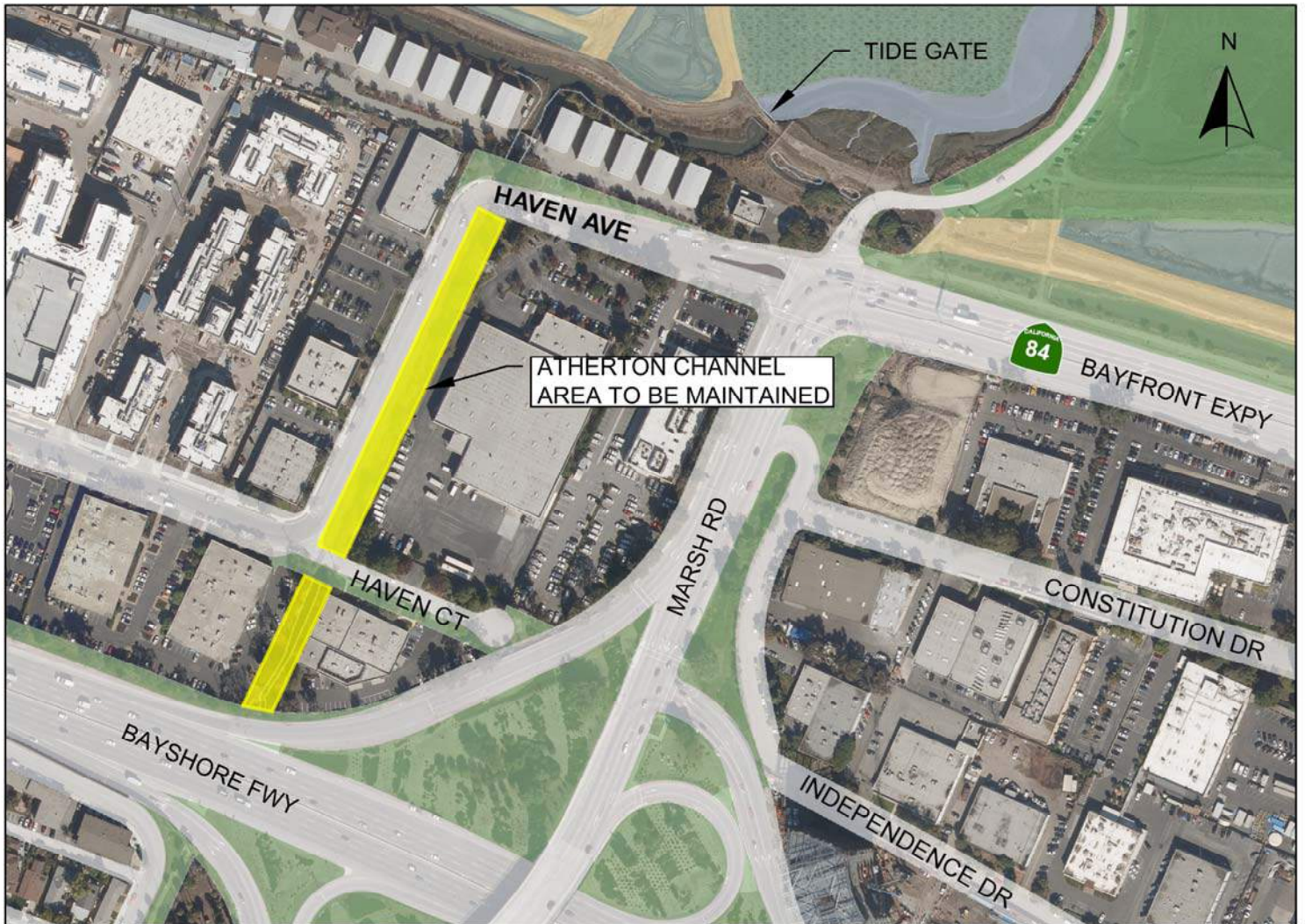
D. Exempt Activities

The following routine maintenance activities are not subject to the provisions of the RMA and are not subject to the provisions of Section 1600 of the FGC if performed within the parameters stated below.

- a. Trash and debris removal by hand, not including silt removal (baby diapers, shopping carts, car bodies, metal, wood, plastic, etc).
- b. Removal of fallen trees from the flow line of the channel that would cause flooding or serious erosion of the banks.

Note: Materials embedded in the bottom of the channel are subject to the provisions of Section 1600.

Site Plan: Atherton Channel Maintenance





STAFF REPORT

City Council

Meeting Date:

8/27/2019

Staff Report Number:

19-178-CC

Consent Calendar:

Authorize the city manager to enter into an agreement with Chefables in an amount not to exceed \$100,000 for the delivery of food services at the Belle Haven Child Development Center for fiscal year 2019-20

Recommendation

Staff recommends the City Council authorize the city manager to enter into an agreement with Chefables in an amount not to exceed \$100,000 for the delivery of food services at the Belle Haven Child Development Center for fiscal year 2019-20.

Policy Issues

City Council must authorize the city manager to execute agreements in excess of \$75,000. Additionally, State and Federal grants that the City receives for operating the Belle Haven Child Development Center require an annual contract with a food service provider meeting specific standards. This vendor conforms to State and Federal requirements for food service delivery.

Background

The City of Menlo Park has operated the Belle Haven Child Development Center (BHCDC) 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 Child and Adult Care Food Program (CACFP) 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 BHCDC 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 BHCDC is licensed for 96 children. The program has an average daily meal count of approximately 90 breakfasts and 90 lunches. The Center is currently contracted by the State to remain open for 246 days a year, which results in the need for approximately 44,280 meals per year.

Analysis

Bids for the delivery of breakfast and lunch were solicited from food vendors providing meals in accordance to State CACFP regulations including: Kidango, School Foodies and Chefables.

Bid results – per meal pricing comparison						
Vendor	Breakfast	Lunch	Total per child/day	Avg. no. of children	Contract days	Annual cost
Kidango (current rate)	\$1.85	\$3.61	\$5.46	90	246	\$120,884
Kidango (proposed)	\$1.90	\$3.70	\$5.60	90	246	\$123,984
School Foodies	-	-	\$5.00	90	246	\$110,700
Chefables	\$1.55	\$3.55	\$5.10	90	246	\$112,914

Chefables was selected based on their years of experience and their ability to meet strict CACFP regulations, the quality and convenience of their food delivery services and their competitive pricing. Kidango was the highest bidder and their current model of service requires a significant amount of City staff time to prepare meals for the children. When compiling bids School Foodies informed us they were new to CACFP regulations and compliance and in addition they may not be ready to provide service by the projected start date given their current contracts.

Chefables supports building a foundation of healthy children’s food habits through providing a nutritious, creative and a fun variety. Chefables proposal includes providing excellent menu options for healthy meals made from scratch, artisan, small batch, and not processed or prepackaged. Chefables promotes balanced meals that are low in sodium, sugar, fats, nutrient dense, full of whole grains and organic or locally grown vegetables and fruits. As with the other proposals, meals are prepared in the support of family style dining which promotes child development. As part of the vendor proposals, taste demonstrations were conducted to help verify the scope and quality of service. Most importantly, the Chefables food program meets the requirements of the USDA child care food program.

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 to the free rate of \$ 0.31 to \$1.79 for breakfast, \$0.31 to \$3.31 for lunch, and \$0.08 to \$0.91 for snacks. Data from 2018-19 indicated that of the children qualifying for a meal subsidy, approximately 18 percent (16 children) qualified for the base reimbursement rate, 22 percent (20 children) qualified for the reduced-price reimbursement rate and 60 percent (54 children) qualified for full subsidy or free reimbursement rate.

Impact on City Resources

Based on the proposed meal pricing and current reimbursement rates by the USDA, the following table provides a year to year comparison of last year’s food contract and the proposed contract with Chefables over a 12 month period.

2018-19 to 2019-20 Comparison – cost versus subsidy								
Vendor	Cost per day	Avg. no. children	Contract days	Annual meal contract	Other food	Total food cost	USDA reimburse	City subsidy
Kidango (18/19 contract)	\$5.46	90	246	\$120,884	\$8,512	\$129,396	\$ 94,421	\$34,975
Chefables (proposed)	\$5.10	90	246	\$112,914	\$8,512	\$121,426	\$94,421 (projected)	\$27,005

The estimated full-year cost with Chefables for 90 breakfasts and 90 lunches would be \$112,914 for 2019-20. The program’s previous vendor, Kidango, provided food services for the first two months of this fiscal year in July and August for approximately \$18,000. Chefables food services support for the remaining 10 months of food services this fiscal year is approximately \$94,095. When you include the \$8,518 for additional food costs (extra snacks, condiments, dry goods, etc.) the estimated total cost for food in 2019-20 is \$120,613. The expenditures and revenues have already been approved as part of the City Council adopted budget for 2019-20.

Environmental Review

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

Public Notice

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

Attachments

- A. Chefables meal proposal
- B. Chefables sample menu
- C. CACFP meal patterns

Report prepared by:
Carmen Lo, Recreation Coordinator

Report reviewed by:
Derek Schweigart, Community Services Director



April 23, 2019

Dear Carmen,

Thank you for taking the time to chat with us on potential collaboration. As you know we have been serving South Bay/Peninsula families amazing food for the past 17 years. Our CACFP Compliant food program is unparalleled in the bay area.

As you probably know, Chefables is known for amazing feeding of children aged 1-5 and our program understands the needs of children in CACFP compliant child development centers. Our CACFP compliant food program is absolutely wonderful and we have been called an “agency asset” in over 300 Federal Reviews/and state audits from 2008-2019.

On the food front: we offer amazing quality, nutrient dense meals for Breakfast, Lunch and PM Snack. Our fully compliant program includes fresh fruit and vegetables daily that are largely organic or from small farms – so the taste really is different. We make most of our whole grain breads and entrees from scratch. Our goal is to get healthy choices to the children that are extremely tasty and that is affordable for the agency.

Finally, we are not building our credentials on our customers back – learning the CACFP compliant food business at the expense of you having any financial and compliance related concerns. We have the highest level of integrity and ethics to perform this partnership as well as the necessary qualifications and eligibility. If you choose to collaborate with Chefables we will always work hard for your team to make sure all children are happy and that you are uniquely understood.

As we understand your needs, you would like to vend Breakfast and Lunch at this point in time. For Breakfast we would be priced at \$1.55/day/meal. For Lunch we would be priced at \$3.55/day/meal. Our food would be served family style and organized for ease of the BHCDC team. If you ever need assistance with snacks please let us know.

We sincerely hope that we get the chance to potentially collaborate with you to serve the children and families of BHCDC.

If you have any questions or concerns, please feel free to contact us at 888-808-2433.

Thank you for your consideration.

Warmest Regards,
-The Chefables Team



Chefables

CACFP Compliant Food Program

Sample Menu

Sample Menu

<p>Breakfast Homemade WG French Toast Fresh Strawberries Milk</p> <p>Lunch Spaghetti Turkey Bolognese Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>	<p>Breakfast Home-baked Lemon Bread Fresh Seasonal Fruit Milk</p> <p>Lunch Homemade Chorizo Chicken Burritos Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>	<p>Breakfast Homemade "Cream of Wheat" Fresh Seasonal Fruit Milk</p> <p>Lunch Homemade Three cheese pizza Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>	<p>Breakfast Home Baked WG Berry Muffin Fresh Seasonal Fruit Milk</p> <p>Lunch Fresh homemade turkey meatloaf with steamed rice Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>	<p>Breakfast Corn Flakes Ripe Papaya Milk</p> <p>Lunch Natural Chicken Tenders Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>
<p>Breakfast Creamy Oatmeal Ripe Bananas Milk</p> <p>Lunch Turkey burger served on a whole grain bun Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>	<p>Breakfast Whole Grain Cheerios Fresh Seasonal Fruit Milk</p> <p>Lunch BBQ Chicken with Corn Bread Muffin Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>	<p>Breakfast Homemade Breakfast Burrito Fresh Seasonal Fruit Milk</p> <p>Lunch Homemade Chicken Fried Rice Ripe Seasonal Fruit Steamed Vegetables Milk</p>	<p>Breakfast Home Baked toasted whole grain English Muffin Orange Wedges Milk</p> <p>Lunch Three Cheese tortellini with tomato sauce and shaved parmesan Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>	<p>Breakfast Homemade Whole Grain Waffles Fresh Seasonal Fruit Milk</p> <p>Lunch Roasted sweet potato and chicken tamale Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>
<p>Breakfast Home Baked Carrot bread Fresh Seasonal Fruit Milk</p> <p>Lunch Potato Gnocchi with fresh tomato sauce and French lentils Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>	<p>Breakfast Rice Krispies Fresh Seasonal Fruit Milk</p> <p>Lunch Soft Turkey Tacos on homemade whole grain tortillas Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>	<p>Breakfast Corn Muffins served with apple butter Fresh Seasonal Fruit Milk</p> <p>Lunch Fresh salmon teriyaki served with steamed rice Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>	<p>Breakfast Home Baked WG Bagels + Cream Cheese Fresh Seasonal Fruit Milk</p> <p>Lunch Homemade Cheese & Bean Burritos Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>	<p>Breakfast Homemade WG blueberry pancakes Fresh Seasonal Fruit Milk</p> <p>Lunch World Famous Mac & Cheese Fresh Ripe Seasonal Fruit Steamed Vegetables Milk</p>

Assumes CACFP Meal Patterns for Children ages 1-2, & 3-5
Fully CACFP compliant vegetarian and allergy menus available daily for children
MA in lieu of grains at breakfast can be available up to 3 times a week
PM Snack program can be available daily upon request



VENDOR #: 20780004312-CACFP-
41-GM-CS
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 SEPTEMBER 2019 BY
MONTH YEAR
AND BETWEEN CITY OF MENLO PARK - BELLE HAVEN CHILD DEVELOPMENT CENTER, HEREINAFTER REFERRED TO AS THE
NAME OF AGENCY
AGENCY, AND BIGBREAK, LLC DBA) CHEFABLES HEREINAFTER REFERRED TO AS THE
NAME OF VENDOR/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 PARTICIPANTS; 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/EXCLUSIVE) OF MILK FOR Bell Haven CDC
NAME OF SITE (ATTACH SHEET IF MULTIPLE)
DELIVERY TO THE AGENCY AT 410 Ivy Drive, Menlo Park, CA BY Noon
ADDRESS TIME
EACH weekday IN ACCORDANCE WITH THE NUMBER OF MEALS REQUESTED AND
* WEEKDAY OR SPECIFIC DAYS AS APPROPRIATE
AT THE COST(S) PER MEAL LISTED BELOW:

BREAKFAST	<u>\$ 1.55</u>	EACH	LUNCH	<u>\$ 3.55</u>	EACH
SUPPLEMENT/SNACK	<u>\$ N/A</u>	EACH	SUPPER	<u>\$ N/A</u>	EACH

(1) BREAKFAST PRICING ABOVE IS FOR GRAIN AT BREAKFAST. IF AGENCY WOULD LIKE MA IN LIEU OF GRAINS THERE WILL BE A \$.25 SURCHARGE PER MEAL (2) ALLERGIES/MEAL MODS COME SEPARATELY PACKAGED AND WILL HAVE A SURCHARGE AT COST FOR THE PACKAGING (3) SPECIALTY MILK CAN BE SUBSTITUTED FOR 1%/WHOLE MILK AT COST

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**

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. THE AGENCY SHALL PROVIDE THE VENDOR WITH A LIST OF APPROVED SERVING LOCATIONS TO BE FURNISHED MEALS BY THE VENDOR AND THE NUMBER OF MEALS, BY TYPE, TO BE DELIVERED TO EACH LOCATION.
2. REQUEST BY TELEPHONE NO LATER THAN Wednesday, 10am 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 SPECIFIC DAYS 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.
3. 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.
4. 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 Next day
TIME EACH DAY
5. NOTIFY THE VENDOR WITHIN 2 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.
6. 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; 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.

* Negotiable time frame.

SCHEDULE B—NSD 2050B

CNIPS #:
VENDOR #:

**CHILD AND ADULT CARE FOOD PROGRAM
MEAL PATTERN FOR INFANTS**

	BIRTH THROUGH FIVE MONTHS	SIX THROUGH ELEVEN MONTHS
BREAKFAST, LUNCH, AND SUPPER	4 TO 6 FLUID (FL) OUNCE (OZ) BREAST MILK ¹ OR FORMULA ²	6 TO 8 FL OZ BREAST MILK ¹ OR FORMULA ² AND 0 TO 4 TABLESPOON (TBSP) INFANT CEREAL ^{2,3} MEAT, FISH, POULTRY, WHOLE EGG, COOKED DRY BEANS OR COOKED DRY PEAS OR CHEESE OR YOGURT ⁴ OR COMBINATION OF THE ABOVE ⁵ AND 0 TO 2 OZ 0 TO 4 OZ (½ CUP) 0 TO 2 TBSP FRUIT, VEGETABLE, OR COMBINATION OF BOTH ^{5,6}
SNACK	4 TO 6 FL OZ BREAST MILK ¹ OR FORMULA ²	2 TO 4 FL OZ BREAST MILK ¹ OR FORMULA ² AND 0 TO ¼ SLICE BREAD ^{3,7} OR 0 TO 2 CRACKERS ^{3,7} OR 0 TO 4 TBSP INFANT CEREAL ^{2,3,7} OR READY-TO-EAT BREAKFAST CEREAL ^{3,5,7,8} AND 0 TO 2 TBSP FRUIT, VEGETABLE, OR COMBINATION OF BOTH ^{5,6}

¹ Breastmilk or formula, or portions of both, must be served; however, it is recommended that breastmilk be served in place of formula from birth through 11 months. For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with additional breastmilk offered at a later time if the infant will consume more.

² Infant formula and dry infant cereal must be iron-fortified.

³ Beginning October 1, 2019, oz equivalents (eq) are used to determine the quantity of creditable grains.

⁴ Yogurt must contain no more than 23 grams (g) of total sugars per 6 oz.

⁵ A serving of this component is required when the infant is developmentally ready to accept it.

⁶ Fruit and vegetable juices must not be served.

⁷ A serving of grains must be whole grain-rich (WGR), enriched meal, or enriched flour.

⁸ Breakfast cereals must contain no more than 6 g of sugar per dry oz (no more than 21 g sucrose and other sugars per 100 g of dry cereal).

CERTIFICATION

I hereby certify that all meals claimed shall meet the minimum requirements set forth in the meal patterns for infants and older children as prescribed by Title 7, Code of Federal Regulations (7 CFR), Section 226.20.

NAME OF AGENCY'S AUTHORIZED REPRESENTATIVE	SIGNATURE	DATE
--	-----------	------

AGENCY NAME
CITY OF MENLO PARK - BELLE HAVEN CDC

FOR BIBBREC LLC

SCHEDULE B—NSD 2050B

CHILD AND ADULT CARE FOOD PROGRAM
MEAL PATTERN FOR OLDER CHILDREN

SNACKS (SELECT TWO OF THESE FIVE COMPONENTS) ¹⁶	AGES 1-2	AGES 3-5	AGES 6-12	AGES 13-18 ²
MILK, FL ³	½ CUP (4 OZ)	½ CUP (4 OZ)	1 CUP (8 OZ)	1 CUP (8 OZ)
VEGETABLES ⁴	½ CUP	½ CUP	¾ CUP	¾ CUP
FRUITS ⁴	½ CUP	½ CUP	¾ CUP	¾ CUP
GRAINS ^{6,7} WGR OR ENRICHED BREAD OR WGR OR ENRICHED BISCUIT, ROLL, MUFFIN, ETC. OR WGR, ENRICHED, OR FORTIFIED COOKED BREAKFAST CEREAL ⁸ , CEREAL GRAIN, AND/OR PASTA OR WGR, ENRICHED, OR FORTIFIED READY-TO-EAT BREAKFAST CEREAL (DRY COLD) ^{8,9} FLAKES OR ROUNDS PUFFED CEREAL GRANOLA	½ SLICE ½ SERVING ¼ CUP ½ CUP ¾ CUP ¾ CUP	½ SLICE ½ SERVING ¼ CUP ½ CUP ¾ CUP ¾ CUP	1 SLICE 1 SERVING ½ CUP 1 CUP 1¼ CUP ¼ CUP	1 SLICE 1 SERVING ½ CUP 1 CUP 1¼ CUP ¼ CUP
M/MA LEAN MEAT, FISH, OR POULTRY OR TOFU, SOY PRODUCT, OR ALTERNATE PROTEIN PRODUCTS ¹¹ OR CHEESE OR EGG (LARGE) OR YOGURT, PLAIN OR FLAVORED, UNSWEETENED OR SWEETENED ^{14,15} OR COOKED DRY BEANS OR DRY PEAS ¹² OR PEANUT BUTTER, SOY NUT BUTTER, OR OTHER NUT OR SEED BUTTERS OR PEANUTS, SOY NUTS, TREE NUTS, OR SEEDS	½ OZ ½ OZ ½ OZ ½ EGG ¼ CUP ¼ CUP 1 TBSP ½ OZ	½ OZ ½ OZ ½ OZ ½ EGG ¼ CUP ¼ CUP 1 TBSP ½ OZ	1 OZ 1 OZ 1 OZ ½ EGG ½ CUP ¼ CUP 2 TBSP 1 OZ	1 OZ 1 OZ 1 OZ ½ EGG ½ CUP ¼ CUP 2 TBSP 1 OZ

¹ Offer versus serve is an option for at-risk afterschool participants only.

² Age group applies to at-risk programs and emergency shelters. Larger portion sizes than specified may need to be served to children ages 13-18 to meet their nutritional needs.

³ Must serve unflavored whole milk to children age one. Must serve unflavored low-fat (1 percent) or unflavored fat-free (skim) milk for children ages 2-5. Must serve unflavored low-fat (1 percent), unflavored fat-free (skim), or flavored fat-free (skim) milk to children six years and older.

⁴ Pasteurized full-strength juice may only be used to meet the vegetable or fruit requirement at one meal, including snack, per day.

⁵ M/MA may be used to meet the entire grains requirement a maximum of three times a week for breakfast. One oz of M/MA is equal to 1 oz eq of grains.

⁶ At least one serving per day, across all eating occasions, must be WGR. Grain-based desserts do not count towards meeting the grains requirement.

⁷ Beginning October 1, 2019, oz eq are used to determine the quantity of creditable grains.

⁸ Breakfast cereals must contain no more than 6 g of sugar per dry oz (no more than 21.2 g sucrose and other sugars per 100 g of dry cereal).

⁹ Beginning October 1, 2019, the minimum serving size specified in this section for ready-to-eat breakfast cereals must be served. Until October 1, 2019, the minimum serving size for any type of ready-to-eat breakfast cereals is ¼ cup for children ages 1-2; ½ cup for children ages 3-5; and ¾ cup for children ages 6-18.

¹⁰ A vegetable may be used to meet the entire fruit requirement. When two vegetables are served at lunch or supper, two different types of vegetables must be served.

¹¹ Alternate protein products must meet the requirements in Appendix A per 7 CFR, Section 226.20.

¹² Cooked dry beans or dry peas may be used as a meat alternate or as a vegetable component; but cannot be counted as both components in the same meal.

¹³ No more than 50 percent of the requirement shall be met with nuts (peanuts, soy nuts, tree nuts) or seeds. Nuts or seeds shall be combined with another M/MA 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.

¹⁴ Yogurt must contain no more than 23 g of total sugars per 6 oz.

¹⁵ Juice cannot be served when milk is served as the only other component.

¹⁶ Commercially added fruit or nuts in flavored yogurt cannot be used to satisfy the second component requirement in snacks.

Offer versus Serve

Adult day care centers may use the offer versus serve (OVS) option for breakfast, lunch, and supper. The OVS option allows participants to refuse some of the food items required while still allowing those meals to be claimed for reimbursement. Under OVS, each adult care center shall offer its participants all of the required food components as set forth in the requirements for meals (7 CFR, Section 226.20). However, at the discretion of the adult day care center, participants may be permitted to decline the following:

- Breakfast: Participants may decline one serving of the four food items (one serving of milk, one serving of vegetable or fruit, or two servings of bread or bread alternate)
- Lunch: Participants may decline two servings of the six food items (one serving of milk, two servings of vegetable or fruit, two servings of bread or bread alternate, or one serving of M/MA)
- Supper: Participants may decline two servings of the five food items (two servings of vegetables and/or fruit, two servings of bread or bread alternate, or one serving of M/MA)

The price of a reimbursable meal shall not be affected if an adult participant declines a food item.

CERTIFICATION

Are meals provided using the OVS option? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, which meals () Breakfast () Lunch () Supper If yes, what date will you begin the OVS option? _____		
<p>I hereby certify that all meals claimed shall meet the minimum requirements set forth in the meal pattern for adults as prescribed by 7 CFR, Section 226.20.</p>		
PRINTED NAME OF AGENCY'S AUTHORIZED REPRESENTATIVE	SIGNATURE	DATE
AGENCY NAME CITY OF MENLO PARK – BELLE HAVEN CDC		

[Handwritten Signature] FOR BIG BREAK LLC

[Handwritten mark]



STAFF REPORT

City Council Meeting Date: 8/27/2019
Staff Report Number: 19-179-CC

Consent Calendar: **Adopt Resolution No. 6520 authorizing the city manager to sign a second contract amendment with the State of California Department of Education to Reimburse the City up to \$1,117,860 for child care services at the Belle Haven Child Development Center for fiscal year 2018-19**

Recommendation

Staff recommends that the City Council adopt a resolution executing a second amendment to the contract with the State of California department of education (CDE) for reimbursement to the City for up to \$1,117,860 for the delivery of child care services at the Belle Haven Child Development Center for fiscal year 2018-19.

Policy Issues

The City Council must authorize the city manager to execute agreements in excess of \$75,000. The recommendation does not represent any change to the existing City policy of accepting state funding to help support subsidized child care in Belle Haven.

Background

The City of Menlo Park has operated the Belle Haven Child Development Center (BHCDC) for over 30 years. The BHCDC is licensed by the State Department of Social Services to provide quality child development services to families in Menlo Park and surrounding cities. The program receives funding from the State department of education, USDA child and adult care food program, user fees, and contributions from the City of Menlo Park general fund. The program seeks to build children's self-esteem by offering developmentally appropriate materials and activities supporting social, emotional, physical and cognitive abilities. Children are provided breakfast, lunch and snacks daily. The teacher to child ratio is 1:8.

Currently at capacity, the 96 program enrollees are subsidized under the California department of education child development division (CDD) State preschool program. State funding restrictions require all parents of children enrolled in the CDC's subsidized slots to be working, in school, in training, seeking permanent housing, actively seeking employment or incapacitated. All families of children enrolled in the CDC must meet strict income eligibility requirements. The State contract also provides funding for additional resource materials, such as classroom supplies and small equipment to support families.

A resolution must be adopted annually in order to certify the approval of the funding by the governing board of the jurisdiction receiving the reimbursement and to authorize designated personnel to enter into the contract with the CDE. The city manager has been identified as the executive director or the authorizing agent for the City of Menlo Park for the purpose of signing the contract. A copy of the second amendment is included as Attachment A. Annual contracts are often amended during the school year when State

funding has been more precisely determined and the City’s contracted grant amount is historically amended upward.

Analysis

Under the terms of the contract, the City agrees to expend contract funds on reimbursable costs necessary to provide child care services for eligible children. The City is also required to meet all reporting requirements and other standard contract provisions. The contract specifies a minimum days of operation (MDO) requirement of 246 days during the fiscal year and 19,414 minimum child days of enrollment. Following the second amendment, the reimbursement rate to the City is \$52.12 per child per day, up to a maximum of \$1,117,860 based on the minimum service requirements.

Upon completion of the BHCDC third quarter fiscal report that is required by the California department of education (CDE), City staff completed a year-end earnings work sheet summary. The work sheet, CDFS 9503a, determines the projected total reimbursement for contract funds. The calculations are based on information from the attendance and fiscal reports completed each quarter. Through the calculated projection, City staff identified an over earning beyond the child care center’s contracted maximum reimbursement of \$1,011,860. A request submitted and processed through the San Mateo County Office of Education (SMCOE) regarding possible additional funds from under earned contracts from other Title V programs. As a result of this effort, the City was informed that it would be eligible for a voluntary/temporary transfer (VTT) request of \$106,000 in conjunction with SMCOE to CDE and was approved for a second amended contract CSPP-8254 for the fiscal year 2018-19 in the amount of \$1,117,860.

The following table provides a program budget and subsidy comparison over several years. In 2012-13, the City closed one classroom (Classroom 4) due to the lack of state and federal funding and there were nine full-time teachers employed. In 2013-14 Classroom 4 was reopened and partially enrolled with 11 full-time teachers on staff. In 2014-15 and 2015-16 Classroom 4 was fully enrolled and program was fully staffed with 12 full-time teachers. However, in 2016-17 and 2017-18 we were fully enrolled but had one full-time teacher vacancy, which we could not fill given the highly competitive job market and the specialized nature of a licensed child care program. In 2018-19 we were able to fill the vacant teacher position mid-year but experienced some salary savings for part of that year. The adopted budget for 2019-20 reflects improved precision in personnel budgeting, additional staffing resources allocated to the program and proper allocation of the IT internal service fund.

Fiscal year	Amended program budget	Actuals program budget	Adopted State/Federal subsidy	Amended State/Federal subsidy	% State decrease or increase	Number of subsidized slots
2012-13	\$1,217,385	\$1,064,681	\$707,945	\$577,421	-18.40%	72
2013-14	\$1,136,416	\$ 1,151,487	\$577,414	\$620,043	7.40%	84
2014-15	\$1,186,895	\$ 1,144,744	\$587,872	\$732,964	18.20%	96
2015-16	\$1,265,051	\$ 1,268,604	\$732,964	\$746,685	1.90%	96
2016-17	\$1,458,716	\$ 1,310,112	\$796,890	\$837,694	12.10%	96
2017-18	\$1,512,099	\$ 1,237,660	\$837,694	\$946,966	13%	96
2018-19	\$1,528,011	\$ 1,495,410	\$946,966	\$1,117,860	18%	96
2019-20	*\$1,824,214	--	\$1,011,860	--	--	96

*2019-20 Adopted budget

Impact on City Resources

As a result of CSPP-8524 amendment 02 for 2018-19, the City will receive up to \$1,117,860 to support the BH CDC through the State contract proposed for authorization. This represents an additional reimbursement of \$106,000 for 2018-19. For 2019-20, the City’s budgeted direct cost to operate the BH CDC is \$1,824,214 and projected revenues including grant, parent fees, food reimbursement and other revenue sources \$1,194,931. The City’s estimated general fund contribution for the BH CDC program for the current fiscal year is \$629,283 but does not include anticipated revenues from the annual amended contract process.

Fiscal year 2019-20 estimated general fund contribution	
	Amount
State and Federal subsidy	\$1,011,860
Parent fees	\$93,400
Food reimbursement	\$94,421
Revenues	\$1,199,681
Expenditures	\$1,824,214
General fund subsidy	(\$624,533)

Environmental Review

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

Public Notice

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

Attachments

- A. Belle Haven CDC CDE funding contract amendment 02 for fiscal year 2018-19
- B. Amendment 02 CDE contract Resolution No. 6520 for fiscal year 2018-19

Report prepared by:
Carmen Lo, Recreation Coordinator

Report reviewed by:
Derek Schweigart, Community Services Director



CALIFORNIA DEPARTMENT OF EDUCATION

1430 N Street

Sacramento, CA 95814-5901

F.Y. 18-19 ATTACHMENT A

Amendment 02

DATE: July 01, 2018

CONTRACT NUMBER: CSPP-8524

PROGRAM TYPE: CALIFORNIA STATE PRESCHOOL PROGRAM

PROJECT NUMBER: 41-2184-00-8

LOCAL AGREEMENT FOR CHILD DEVELOPMENT SERVICES

VTT Transfer of \$106,000 from CSPP-8529 and CSPP-8542

CONTRACTOR'S NAME: CITY OF MENLO PARK

This agreement with the State of California dated July 01, 2018 designated as number CSPP-8524 and Amendment #01 (Budget Act) shall be amended in the following particulars but no others:

The Maximum Reimbursable Amount (MRA) payable pursuant to the provisions of this agreement shall be amended by deleting reference to \$1,011,860.00 and inserting \$1,117,860.00 in place thereof.

The Maximum Rate per child day of enrollment payable pursuant to the provisions of the agreement shall be \$52.12. (No change)

SERVICE REQUIREMENTS

The minimum Child Days of Enrollment (CDE) Requirement shall be amended by deleting reference to 19,414.0 and inserting 21,448.0 in place thereof.

Minimum Days of Operation (MDO) Requirement shall be 246. (No change)

EXCEPT AS AMENDED HEREIN all terms and conditions of the original agreement shall remain unchanged and in full force and effect.

STATE OF CALIFORNIA		CONTRACTOR	
BY (AUTHORIZED SIGNATURE)		BY (AUTHORIZED SIGNATURE)	
PRINTED NAME OF PERSON SIGNING Jaymi Brown,		PRINTED NAME AND TITLE OF PERSON SIGNING	
TITLE Contract Manager		ADDRESS	
AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 106,000	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE	
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$ 1,011,860	(OPTIONAL USE) See Attached		
TOTAL AMOUNT ENCUMBERED TO DATE \$ 1,117,860	ITEM See Attached	CHAPTER	STATUTE
OBJECT OF EXPENDITURE (CODE AND TITLE) 706		FISCAL YEAR	
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.		T.B.A. NO.	B.R. NO.
SIGNATURE OF ACCOUNTING OFFICER See Attached		DATE	

Department of General Services use only

CONTRACTOR'S NAME: CITY OF MENLO PARK

CONTRACT NUMBER: CSPP-8524

Amendment 02

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 13,167	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE Federal		
PRIOR AMOUNT ENCUMBERED \$ 114,945	(OPTIONAL USE)0656 13609-2184	FC# 93.596	PC# 000321	
TOTAL AMOUNT ENCUMBERED TO DATE \$ 128,112	ITEM 30.10.020.001 6100-194-0890	CHAPTER 29	STATUTE 2018	FISCAL YEAR 2018-2019
	OBJECT OF EXPENDITURE (CODE AND TITLE) 706 SACS: Res-5025 Rev-8290			

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 6,048	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE Federal		
PRIOR AMOUNT ENCUMBERED \$ 52,794	(OPTIONAL USE)0656 15136-2184	FC# 93.575	PC# 000324	
TOTAL AMOUNT ENCUMBERED TO DATE \$ 58,842	ITEM 30.10.020.001 6100-194-0890	CHAPTER 29	STATUTE 2018	FISCAL YEAR 2018-2019
	OBJECT OF EXPENDITURE (CODE AND TITLE) 706 SACS: Res-5025 Rev-8290			

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 45,721	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE General		
PRIOR AMOUNT ENCUMBERED \$ 476,570	(OPTIONAL USE)0656 23038-2184			
TOTAL AMOUNT ENCUMBERED TO DATE \$ 522,291	ITEM 30.10.010. 6100-196-0001	CHAPTER 29	STATUTE 2018	FISCAL YEAR 2018-2019
	OBJECT OF EXPENDITURE (CODE AND TITLE) 706 SACS: Res-6105 Rev-8590			

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 41,064	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE General		
PRIOR AMOUNT ENCUMBERED \$ 367,551	(OPTIONAL USE)0656 23254-2184			
TOTAL AMOUNT ENCUMBERED TO DATE \$ 408,615	ITEM 30.10.020.001 6100-194-0001	CHAPTER 29	STATUTE 2018	FISCAL YEAR 2018-2019
	OBJECT OF EXPENDITURE (CODE AND TITLE) 706 SACS: Res-6105 Rev-8590			

RESOLUTION NO. 6520

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK AUTHORIZING AN AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF EDUCATION TO RECEIVE THE SUBSIDY FOR CHILD CARE AND DEVELOPMENT SERVICES FOR FISCAL YEAR 2018-19

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

BE IT AND IT IS HEREBY RESOLVED that the City Council of the City of Menlo Park authorizes entering into local agreement number CSPP-8524 reimbursing the City up to \$1,117,860.00 for child care services at the Belle Haven Child Development Center for fiscal year 2018-19, and that the person who is listed below is authorized to sign the transaction for the City Council.

Starla Jerome Robinson
Name

City Manager
Title

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the twenty-seventh day of August, 2019, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this twenty-seventh day of August, 2019.

Judi A. Herren, City Clerk



STAFF REPORT

City Council

Meeting Date:

8/27/2019

Staff Report Number:

19-175-CC

Regular Business:

Receive post adoption review and report of safe city ordinance and direct staff to prepare an ordinance to sunset the safe city ordinance as it is now preempted by current state law

Recommendation

Staff recommends City Council:

1. Receive report on the safe city ordinance pursuant by Menlo Park Municipal Code Section 2.58.
2. Direct staff to return with an ordinance to sunset Municipal Code Chapter 2.58 on the basis of preemption by state law.

Policy Issues

This report is being presented to comply with City Council direction requesting a one-year post adoption review and report of the safe city ordinance. Municipal Code section 2.58 safe city, is now preempted by State Law and can be may be scheduled to sunset.

Background

On June 20, 2017, the City Council approved and adopted the safe city ordinance. The ordinance directed a review of the ordinance and a report regarding any relevant incidences to be conducted one year from adoption. At that time, the City's ordinance exceeded the requirements set by the general laws of the State of California. On January 4, 2018, Senate Bill 54 (SB54/TRUST and VALUE Act) went into effect and modified the existing TRUTH Act, which was effective January 1, 2017.

Analysis

Required reporting:

From June 20, 2017, through June 30, 2019, city officials, including law enforcement officers, did not:

1. Administer any federal immigration law;
2. Take any action against an individual because of their immigrations status;
3. Inquire about the immigration status of an individual;
4. Cooperate with Immigration and Customs Enforcement (ICE) detainer requests
5. Provide ICE agents access to any individuals; or
6. Use any city funds, resources, facilities, property, equipment, or personnel for any activities related solely to identifying, investigating, or arresting any person for federal immigration law violations.

Comparison of ordinance to state law:

The City of Menlo Park enacted ordinance 1036 in 2017, and added Chapter 2.58: safe city to the Municipal

Code (Attachment A.) Chapter 2.58 confirms the City's foundation of having a diverse community, and that it is a "safe city" for all regardless of immigration status, religion, race, nationality, ethnicity, sexual orientation, gender or gender identity.

The ordinance confirmed that all City officials, including law enforcement officers, shall not administer federal immigration law and not take any action against any individual based on the individual's immigration status unless legally required to do so pursuant to a valid federal criminal warrant. The ordinance went on to confirm that no City employee shall inquire about the immigration status of any individual unless necessary to investigate criminal activity by that individual or it is an element of the crime being reported.

Section 2.58.020 confirms that the City is legally required to cooperate with federal criminal warrants, and makes the distinction between a federal criminal warrant and a civil immigration detainer request, and sets forth the specific situation in which the City shall respond to a civil detainer request.

Section 2.58.030 confirmed that no City agency, department, officer or employee shall use city funds, resources, facilities, property, equipment or personnel to investigate, arrest, detain or continue to detain a person in the absence of a valid criminal warrant based on the individual's immigration status; or to participate in any immigration enforcement operation that is focused on the enforcement of federal immigration laws. It also prohibited City employees from notifying federal authorities about the release or pending release of any person for immigration purposes or provide federal authorities with nonpublic information about any person for immigration purposes.

Lastly, the ordinance set forth that the City Council will review the ordinance and receive a report regarding any incidents relevant to the ordinance one year from its adoption.

The California Legislature passed Senate Bill 54 (TRUST Act and VALUE Act,) which became effective January 4, 2018. The bill made changes to California law and defined the parameters under which state and local law enforcement agencies may engage in immigration enforcement related activities. The California Legislature also adopted The Transparent Review of Unjust Transfers and Holds (TRUTH) Act, effective January 1, 2017.

Together, these new laws largely if not entirely preempt the City's safe city ordinance. That is, the new laws prohibit the use of law enforcement resources to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes. This includes prohibiting:

- the use of resources to investigate, arrest, detain or continue to detain an individual for immigration enforcement purposes;
- inquiring into an individual's immigration status;
- detaining an individual in response to a federal "hold" request;
- providing non-public information about any person for immigration purposes (to the extent not required/preempted by federal law);
- making or participating in arrests based on civil immigration warrants;
- honoring transfer or notification requests or providing information regarding a person's release date exempt when required/preempted by federal law.

The new laws, however, confirm that a local entity may go beyond California law to prohibit certain immigration enforcement activities by the police department. At this time, there is no recommendation to impose local regulations that go beyond California law. If the City Council concurs, staff will return with an ordinance to sunset Municipal Code Chapter 2.58 on the basis of preemption by state law.

Impact on City Resources

There is no impact on City resources.

Environmental Review

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

Public Notice

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

Attachments

- A. Menlo Park Municipal Code 2.58
- B. California Department of Justice information bulletin

Report prepared by:
Dave Bertini, Chief of Police

Chapter 2.58 SAFE CITY

Sections:

- [2.58.010](#) Safe city.
- [2.58.020](#) Federal criminal warrants and civil immigration detainer requests.
- [2.58.030](#) Use of city funds prohibited.
- [2.58.040](#) Compliance—No private right of action.
- [2.58.050](#) Reporting.

2.58.010 Safe city.

- (a) The city of Menlo Park is an ethnically, racially and religiously diverse city. The city has long derived its strength and prosperity from its diverse community. Cooperation with all members of the city's diverse community is essential to advancing the city's mission, vision and guiding principles, including community safety, support for youth and education, economic development and financial stability.
- (b) The city of Menlo Park is a safe city for all, regardless of immigration status, religion, race, nationality, ethnicity, sexual orientation, gender or gender identity.
- (c) City of Menlo Park officials, including its law enforcement officers, shall not administer federal immigration law, which is the exclusive authority of the federal government, and shall not take any direct action against an individual because of their immigration status, unless legally required to do so pursuant to a valid federal criminal warrant.
- (d) With respect to law enforcement activities, no employee of the city of Menlo Park shall inquire about the immigration status of an individual, including but not limited to a crime victim, witness or person who calls or approaches law enforcement personnel seeking assistance, unless necessary to investigate criminal activity by that individual or it is an element of the crime being reported. (Ord. 1036 § 2 (part), 2017).

2.58.020 Federal criminal warrants and civil immigration detainer requests.

- (a) The city of Menlo Park is legally required to cooperate with federal criminal warrants. Federal criminal warrants are distinct from civil immigration detainer requests. Unlike a warrant, a civil detainer request is not issued by a judge and is not based on a finding of probable cause.
- (b) The city of Menlo Park shall not cooperate with Immigration and Customs Enforcement (ICE) detainer requests of an individual unless one (1) or more of the circumstances identified in California Government Code Sections [7282.5\(a\)\(1\)](#) through (4) and (6) apply.
- (c) Except as otherwise required in this chapter or unless city officials have a legitimate law enforcement purpose that is not related to the enforcement of civil immigration laws, the city shall not give ICE agents access to individuals. (Ord. 1036 § 2 (part), 2017).

2.58.030 Use of city funds prohibited.

- (a) No city agency, department, officer or employee shall use city funds, resources, facilities, property, equipment or personnel to:

- (1) Identify, investigate, arrest, detain or continue to detain a person in the absence of a valid criminal warrant on the belief that the person is not present legally in the United States or that the person has committed a violation of immigration law.
- (2) Assist or participate in any immigration enforcement operation or joint operation or patrol that is focused on the enforcement of federal immigration laws.
- (3) Arrest, detain or continue to detain a person in the absence of a valid criminal warrant based on any civil immigration detainer request.
- (4) Notify federal authorities about the release or pending release of any person for immigration purposes.
- (5) Provide federal authorities with nonpublic information about any person for immigration purposes.

(b) No city agency, department, officer or employee shall use city funds, resources, facilities, property, equipment or personnel unless such assistance is required by a valid and enforceable federal or state law or is contractually obligated. Nothing shall prevent the city, including any agency, department, officer or employee, from lawfully discharging his/her duties in compliance with a lawfully issued judicial warrant, subpoena or court decision. (Ord. 1036 § 2 (part), 2017).

2.58.040 Compliance—No private right of action.

(a) The clerk of the city of Menlo Park shall send copies of this chapter, including any future amendments, to every department of the city of Menlo Park. Any employee who willfully and intentionally violates the prohibitions in this chapter may face department discipline up to and including termination.


(b) In undertaking the adoption and enforcement of this chapter, the city is assuming an undertaking only to promote the general welfare. This chapter does not create or form the basis of liability on the part of the city, its agents, departments, officers or employees. It is not intended to create any new rights for breach of which the city or any of its employees are liable for money or any other damages to any person who claims that such breach proximately caused injury. (Ord. 1036 § 2 (part), 2017).

2.58.050 Reporting.

One year from adoption of the ordinance codified in this chapter, the city council will review the ordinance and receive a report regarding any incidents relevant to the ordinance. (Ord. 1036 § 2 (part), 2017).

The Menlo Park Municipal Code is current through Ordinance 1055, passed March 12, 2019.

Disclaimer: The City Clerk's Office has the official version of the Menlo Park Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

<p style="text-align: center;">California Department of Justice DIVISION OF LAW ENFORCEMENT Kevin Gardner, Chief</p> 	INFORMATION BULLETIN	
<p><i>Subject:</i></p> <p>Responsibilities of Law Enforcement Agencies Under the California Values Act, California TRUST Act, and the California TRUTH Act</p>	<p><i>No.</i></p> <p>DLE-2018-01</p>	<p><i>Contact for information:</i></p> <p>Kevin Gardner, Chief Division of Law Enforcement (916) 210-6300</p>
	<p><i>Date:</i></p> <p>3/28/2018</p>	

TO: Executives of State and Local Law Enforcement Agencies

This bulletin provides guidance to law enforcement agencies regarding Senate Bill 54, effective January 4, 2018 (Sen. Bill No. 54 (2017-2018 Reg. Sess.)). SB 54 makes significant changes to California’s Transparency and Responsibility Using State Tools (TRUST) Act (Gov. Code, §§ 7282 and 7282.5), establishes California’s Values Act (Gov. Code, §§ 7284, 7284.2, 7284.4, 7284.6, 7284.10, and 7284.12), and repeals Health and Safety Code section 11369. Together, these provisions define the parameters under which state and local law enforcement agencies may engage in immigration enforcement-related activities.

The Transparent Review of Unjust Transfers and Holds (TRUTH) Act, Government Code sections 7283, 7283.1, 7283.2, effective January 1, 2017, creates mandatory notice and procedural protections for individuals in the custody of local law enforcement agencies should federal immigration officers wish to contact them. This bulletin also provides guidance regarding local law enforcement agencies’ obligations under the TRUTH Act, including similar provisions within SB 54 that apply to the California Department of Corrections and Rehabilitation (CDCR).

This bulletin replaces the previous law enforcement bulletins entitled “Responsibilities of Local Law Enforcement Agencies under Secure Communities and the TRUST Act,” Information Bulletin No. 14-01 (June 25, 2014) and “Responsibilities of Local Law Enforcement Agencies under Secure Communities,” Information Bulletin No. 2012-DLE-01 (Dec. 4, 2012). This bulletin does not provide guidance on the reporting obligations of law enforcement agencies to the California Department of Justice with respect to the activities of joint law enforcement task forces and transfers of individuals to immigration authorities; these reporting requirements are set forth in a separate information bulletin entitled California Values Act’s Statistical Reporting Requirements (18-02-CJIS).

SUMMARY

I. Amendments to the TRUST Act

The TRUST Act previously described the circumstances under which a local California law enforcement agency could detain an individual past their scheduled release in response to a hold request from immigration authorities. As amended by SB 54, the TRUST Act no longer addresses detentions in response to hold requests because the Values Act prohibits such detentions. The TRUST Act, as amended by SB 54, now describes the circumstances under which a California law enforcement agency can respond to transfer and notification requests from immigration authorities.

II. Overview of the Values Act

In enacting the Values Act, the Legislature made clear in its findings that immigrants are valuable and essential members of the California community. The Legislature further determined that “a relationship of trust between

California’s immigrant community and state and local agencies is central to the public safety of the people of California.” (Gov. Code, § 7284.2). Thus, the core purpose of the Values Act is to ensure effective policing and to protect the safety, well-being, and constitutional rights of the people of California. (*Ibid.*)

The Values Act does the following:

1. Sets the parameters under which California state and local law enforcement agencies may engage in “immigration enforcement,” as defined, and requires certain information about joint law enforcement task forces and transfers of individuals to immigration authorities to be reported to the California Department of Justice.
2. Requires the CDCR to provide individuals in its custody with information about their legal rights should federal immigration officers request to make contact with them, similar to the requirements of the TRUTH Act (Gov. Code, § 7283 et seq.), which applies to local law enforcement agencies.
3. Requires the Attorney General’s Office to issue model policies, to be adopted by public schools, state or locally operated health facilities, courthouses and other enumerated state and local facilities, that limit assistance with immigration enforcement to the fullest extent possible consistent with federal and state law. The Attorney General’s Office will further provide guidance to agencies regarding ways to protect privacy and limit the dissemination of information contained in their databases for immigration enforcement purposes, as permitted under federal and state law.

It should be noted that the Values Act defines many terms, some of which may seem familiar to law enforcement officers, but have special meaning within the context of this new law. For example, the Values Act defines “California law enforcement agency” as “a state or local law enforcement agency, including school police or security departments.” (Gov. Code, § 7284.4, subd. (a).) This term, however, does not include the CDCR. (*Ibid.*) Therefore, the provisions of Government Code sections 7284.6 and 7284.8 do not apply to the CDCR.

Further, the Values Act defines “immigration enforcement” as “any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person’s presence in, entry, or reentry to, or employment in, the United States.” (Gov. Code, § 7284.4, subd. (f).) And, under the Values Act, a “judicial warrant” means “a warrant based upon probable cause for a violation of *federal criminal immigration* law and issued by a federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest and take into custody the person who is the subject of the warrant.” (Gov. Code, § 7284.4, subd. (i), emphasis added.) While this bulletin points out a few of the relevant definitions, individual agencies should review the law to ensure full understanding of all the key terms in the Values Act.

III. The Discretion of California Law Enforcement Agencies to Participate in Immigration-Related Activities is Limited By SB 54 in the Following Ways:

- 1. Prohibits use of resources to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including:**

- a. Inquiring into an individual's immigration status;¹
- b. Detain an individual in response to a hold request²;
- c. Provide personal information, as defined in Civil Code section 1798.3, including but not limited to home or work addresses, unless this information is "available to the public." For purposes of this prohibition, "personal information" means "any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual." (Civ. Code, § 1798.3, subd. (a).)

Although not expressly defined in the act, the phrase "available to the public" refers to information where a law enforcement agency has a practice or policy of making such information public, such as disclosing the information on its website or if it has a practice or policy of providing the information to individuals in response to specific requests. Law enforcement agencies should, in addition to ensuring compliance with the Values Act, take care to ensure that they comply with applicable state or federal privacy laws.

However, there is an important exception to this limitation on providing personal information: federal law (8 U.S.C. §§ 1373, 1644) prohibits restrictions on the exchange of information regarding a person's citizenship or immigration status, and all California law enforcement agencies should comply with these laws.

- d. Make or intentionally participate in arrests based on "civil immigration warrants," which means any warrant for a violation of federal civil immigration law and includes civil immigration warrants entered in the National Crime Information Center database; and
- e. Assist immigration authorities in immigration enforcement activities at the United States borders, as described in 8 U.S.C. § 1357(a)(3), or performing the functions of an immigration officer whether informally or formally, through an 8 U.S.C. § 1357(g) agreement or any other law, regulation or policy.

¹ This provision does not prohibit inquiries into an individual's immigration status to immigration authorities, or exchanging immigration status information with any other federal, state, or local government entity, pursuant to 8 U.S.C. §§ 1373 and 1644. (See Gov. Code, § 7284.6, subd. (e).)

² "Hold request" means a request by any immigration authority that a local law enforcement agency maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to an immigration authority. (Gov. Code, §§ 7283, subd. (b); 7284.4, subd. (e).)

"Notification request" means a request by any immigration authority that a local law enforcement agency inform an immigration authority of the release date and time in advance of the public of an individual in its custody. (Gov. Code, §§ 7283, subd. (f); 7284.4, subd. (e).)

"Transfer request" means a request by any immigration authority that a local law enforcement agency facilitate the transfer of an individual in its custody to an immigration authority. (Gov. Code, §§ 7283, subd. (g); 7284.4, subd. (e).)

Hold, notification, and transfer requests include requests issued by U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection as well as any other immigration authorities. (Gov. Code, § 7284.4, subd. (e).) "Immigration authority" means any federal, state, or local officer, employee or person performing immigration enforcement functions. (Gov. Code, § 7284.4, subd. (c).)

2. California law enforcement agencies cannot honor transfer and notification requests or provide information regarding a person's release date except in certain circumstances:

California law enforcement agencies are never *required* to respond to transfer or notification requests -- under the Values Act they retain the discretion to decline these requests for any reason. (Gov. Code, § 7282.5, subd. (a).) Thus, law enforcement agencies may honor transfer and notification requests as specified in the Values Act as follows:

- a. **Transfer Requests:** Responding to transfer requests is permitted only if:
- i. The transfer is authorized by a judicial warrant, as defined by Government Code section 7282.4, subdivision (i), or a judicial probable cause determination, as defined by Government Code section 7282.4, subdivision (h), regarding a violation of federal criminal immigration law;
- or
- ii. Where the transfer would not otherwise violate any federal, state, or local law, or local policy, and the individual in custody meets any one of the conditions set forth in the TRUST Act, Government Code section 7282.5, subdivision (a). These qualifying conditions are:
 - 1) The individual has been convicted at any time of a serious or violent felony, as defined in Penal Code section 1192.7, subdivision (c), or Penal Code section 667.5, subdivision (c).
 - 2) The individual has been convicted at any time of a felony that is presently punishable by imprisonment in state prison.
 - 3) The individual was convicted within the past 15 years of a felony listed in Government Code section 7282.5, subdivision (a)(3), or within the past five years of a wobbler (i.e., a crime punishable as either a felony or a misdemeanor) listed in Government Code section 7282.5, subdivision (a)(3).
 - 4) The individual is a current registrant on the California Sex and Arson Registry.
 - 5) The individual has been convicted of certain specified federal aggravated felonies identified in section 101(a)(43)(A)-(P) of the federal Immigration and Nationality Act (8 U.S.C. § 1101(a)(43)(A)-(P)).
 - 6) The United States Department of Homeland Security's Immigration and Customs Enforcement (ICE) identifies the person as the subject of an outstanding federal felony arrest warrant for any federal crime.

Furthermore, if a law enforcement agency does transfer an individual to immigration authorities, Government Code section 7284.6, subdivision (c)(2) requires the agency to report to the California Department of Justice the number of transfers it makes in a calendar year, as well as the offense that allowed for the transfer. For more information regarding these reporting obligations, please see Information Bulletin 18-02-CJIS (California Values Act's Statistical Reporting Requirements).

- b. **Notification Requests:** Providing information regarding a person’s release date or responding to notification requests from immigration authorities by providing an individual’s release date or other information is permitted only if:
 - i. The information is available to the public;
 - or
 - ii. The individual is subject to (1) the qualifying conditions in the TRUST Act, Government Code section 7282.5, subdivision (a) described above with respect to transfer requests; or (2) the individual has been arrested and taken before a magistrate judge on the following types of charges, and the magistrate makes a probable cause determination (Pen. Code, § 872) for the charge: (i) a serious or violent felony (Pen. Code, §§ 1192.7, subd. (c) or 667.5, subd. (c)); or (ii) a felony that is punishable by imprisonment in state prison. (Gov. Code, § 7282.5, subd. (b)).

A conviction for a straight misdemeanor, i.e., a crime that is *presently* punishable *only* as a misdemeanor, is not listed in section 7285, subdivision (a), and therefore is not a valid justification for honoring a transfer or notification request. And misdemeanor convictions for crimes affected by Proposition 47 (2014), the “Safe Neighborhoods and Schools Act,” including felony convictions that were reduced to misdemeanors or re-designated as misdemeanors by a court as a result of Proposition 47, cannot serve as the basis for transfers or providing release date information to immigration authorities. (Gov. Code, § 7285.5, subd. (a)(6)). The crimes affected by Proposition 47 include, but are not limited to: simple drug possession for personal use, shoplifting, forgery, writing bad check, petty theft, and receiving stolen property.

Before honoring a transfer or notification request on the basis of a qualifying conviction, California law enforcement agencies should carefully review an individual’s Record of Arrests and Prosecutions to determine whether a listed felony conviction was reduced to a misdemeanor, or re-designated as a misdemeanor, by a court under Proposition 47. If so, cooperation with immigration authorities is prohibited, unless there is another valid basis for cooperation (for transfers, a judicial warrant; for notifications, if the information is publicly available).

3. Other Restrictions on Immigration Enforcement

California law enforcement agencies may not (1) allow officers to be supervised by federal agencies or deputized for immigration enforcement purposes; (2) use immigration authorities as interpreters for law enforcement matters relating to individuals in custody; (3) provide office space exclusively for immigration authorities in city or county law enforcement facilities; or (4) enter into a contract, after June 15, 2017, with the federal government to house or detain adult and minor noncitizens in a locked detention facility for purposes of immigration custody; agencies with existing federal contracts cannot renew or modify the contract if doing so would expand the number of contract beds available to detain noncitizens for purposes of civil immigration custody. (Gov. Code, §§ 7310, 7311).

IV. If agency policy or local law or policy permit, a California law enforcement agency has discretion, but is not required, to perform the following immigration enforcement activities:

- 1. Investigate, enforce, detain persons upon reasonable suspicion of, or arrest, persons for violation of 8 U.S.C. § 1326(a), the federal criminal violation for reentry by a noncitizen after removal, but only if the individual was removed because of an aggravated felony conviction under 8 U.S.C. § 1326(b)(2) and the suspected violation was detected during an unrelated law enforcement activity. This is the one limited circumstance in which the Value Act permits a law enforcement official to exercise their discretion to

arrest or assist in the arrest of a person for a *federal immigration law violation*. Transfers of these individuals to immigration authorities are subject to the above restrictions regarding transfers.

2. Provide individual criminal history in response to a request from immigration authorities about a specific person's criminal history, including information obtained from CLETs or similar local databases, as long as it is otherwise permitted by state law.
3. Participate in a joint law enforcement task force, including the sharing of confidential information with task force participants, if all of the following conditions are met:
 - a. The task force's primary purpose is not immigration enforcement;
 - b. Enforcement or investigative duties are primarily related to violations of state or federal law unrelated to immigration enforcement; and
 - c. The local law or policy that the agency is subject to permits such participation.

Nothing in the Values Act prohibits a California law enforcement agency from asserting its own jurisdiction over criminal law enforcement matters, i.e., engaging in an investigation, detention or arrest for criminal activities based upon California state law, even when its activities may indirectly impact or assist a federal agency that is engaged in immigration enforcement as part of a joint task force or otherwise. (Gov. Code, § 7284.6, subd. (f).) This includes circumstances in which an officer is responding to a call for service involving a violation of a state criminal law or during an immigration enforcement action where the safety of the public or a law enforcement officer, including an immigration enforcement officer, is in danger. In these limited circumstances, a California law enforcement officer may assist any law enforcement official, even if those officials are engaged in immigration enforcement, but only when the California law enforcement officer is enforcing state law. This narrow public safety exception should not be used to avoid the prohibitions in the Values Act on using state resources to conduct immigration enforcement.

If a California law enforcement agency has agreed to dedicate personnel or resources on an ongoing basis to a task force, it must report the information set forth in Government Code section 7284.6 subdivision (c)(1) concerning the activities of the task force to the Department of Justice, as explained in Information Bulletin 18-02-CJIS (California Values Act's Statistical Reporting Requirements).³

4. Ask for information necessary to certify potential victims of crime or human trafficking with respect to T-visas and U-visas (8 U.S.C. §§ 1101(a)(15)(T) and 1101(a)(15)(U)),⁴ or to comply with 18 U.S.C. § 922(d)(5), which prohibits the sale or disposition of firearms or ammunition to a person who law enforcement knows or has reasonable cause to believe is not lawfully present in the United States. California Penal Code sections 679.10 and 679.11 mandate that certifying state and local agencies submit certifications for T- or U-Visa applicants when certain conditions are met. Certifying law enforcement agencies are prohibited from disclosing the immigration status information of a victim or person requesting T- or U-visa certification forms except to comply with federal law or legal process, or if authorized by the victim. For guidance regarding law enforcement agencies' obligations under

³ An "ongoing basis" means more than one interaction with any federal, state, or local LEA on a task force to discuss task force operations. Accordingly, isolated interactions with a federal law enforcement agency are not subject to these reporting requirements because the California LEA did not dedicate personnel or resources to the task force on more than one occasion.

⁴ The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000 is a federal law that, among other things, provides temporary immigration benefits to individuals without immigration status who are victims of specified qualifying crimes including human trafficking. (VTVPA, Pub. L. No. 106-386, 114 Stat. 1464-1548 (2000).)

California Penal Code section 679.10 with respect to U-Visas, see the Information Bulletin by California Department of Justice Division of Law Enforcement, dated October 28, 2015, available at https://oag.ca.gov/system/files/attachments/press_releases/dle-2015-04.pdf.

5. Provide ICE with access to interview an individual in custody, if the agency gives the notices required by the TRUTH Act (Gov. Code, § 7283 et seq.). Local law or policy, or agency policy, may be more restrictive than the Values Act. Agencies should determine whether, even if the Values Act permits assistance in immigration enforcement related activities, the agency's policy or local law or policies prohibit such activities. Further, if a particular activity is prohibited by the agency or the agency's jurisdiction, the agency must comply with the more restrictive conditions of the agency or jurisdiction so long as the local law or policy complies with 8 U.S.C. §§ 1373 and 1644, governing restrictions on the exchange of a person's immigration and citizenship status with government officials.

In addition, if officers are working in a school district pursuant to a memorandum of understanding (MOU) between the law enforcement agency and the district, the officer must adhere to the requirements of the MOU, even if that MOU conflicts with agency policy with respect to immigration enforcement matters, so long as the MOU complies with 8 U.S.C. §§ 1373 and 1644.

V. Additional Law Enforcement Activity Under the Values Act

1. The Values Act does not prohibit a law enforcement agency from exchanging information regarding a person's immigration status with governmental entities, including immigration authorities, and the Act specifically cites 8 U.S.C. § 1373 and 8 U.S.C. § 1644 as authority for that provision. Under those federal statutes, law enforcement officers must be allowed to:
 - a. Send to, or receive from, federal immigration authorities, information regarding the citizenship or immigration status, whether lawful or unlawful, of any individual;
 - b. Request information from federal immigration authorities regarding any individual's immigration status, whether lawful or unlawful; and
 - c. Maintain or exchange information regarding the immigration status of any individual with other governmental entities.

The Values Act also permits the disclosure of an individual's name for purposes of making or responding to an inquiry about an individual's immigration or citizenship status to other governmental entities.

2. One federal district court in California has ruled on the scope of 8 U.S.C. § 1373 and determined that Section 1373 does not bar *all* restrictions on communications between state and local law enforcement and the federal government, and specifically, does not bar restrictions on the sharing of inmates' release dates. That court determined that Section 1373 "only" prohibits restrictions on the exchange of information regarding a person's citizenship or immigration status. (*Steinle v. City & Cty. of San Francisco* (N.D. Cal. 2017) 230 F. Supp. 3d 994, 1015.) Thus, under the Values Act, the disclosure of all other personal information that does not encompass information regarding a person's citizenship or immigration status, including a person's home and work address, is prohibited from disclosure unless it is publicly available or permitted under Government Code section 7284.6, subdivision (b)(2).

VI. The Requirements of the TRUTH Act

The TRUTH Act, Government Code sections 7283, 7283.1, 7283.2, provides individuals who are in the custody of local law enforcement agencies with information about their procedural and legal rights should ICE wish to contact them. Specifically, the statute requires:

1. Before any interview between ICE and an individual in custody of a local law enforcement agency regarding civil immigration violations, the local law enforcement entity shall provide the individual with a written consent form,⁵ that explains all of the following:
 - a. The purpose of the interview;
 - b. That the interview is voluntary; and
 - c. That the individual may decline the interview or may choose to be interviewed with only their attorney present.
2. Upon receiving any ICE hold, notification, or transfer request, the local law enforcement agency shall:
 - a. Provide a copy of the request to the individual; and
 - b. Inform the individual whether the law enforcement agency intends to comply with the request. However, with respect to ICE hold requests, the LEA may not hold an individual past the time that he or she normally would be released, as is now required under the Values Act. (Gov. Code, § 7284.6, subd. (a)(1)(B).)
3. If a local law enforcement agency chooses to provide ICE with notification that an individual will be released from custody on a certain date, the local law enforcement agency must promptly provide the same notification in writing to the individual and to his or her attorney or other person designated by the individual being held. (Gov. Code, § 7283.1, subd. (b).)
4. All records relating to ICE access provided by local law enforcement agencies, including all communication with ICE, shall be public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250)), including the exemptions provided by that Act. The TRUTH Act explicitly provides that personal identifying information may be redacted prior to public disclosure as provided under the California Public Records Act. When responding to such requests, law enforcement agencies should therefore keep in mind California's privacy laws and all applicable exemptions under the California Public Records Act that protect such personal information from disclosure.⁶ (Gov. Code, § 7283.1, subd. (c).)
5. Beginning January 1, 2018, the local governing body of any county, city, or city and county in which a local law enforcement agency has provided ICE access to an individual during the last

⁵ The local law enforcement agency is required to make the written consent form available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean, and any additional languages that meet the county threshold as defined in Health and Safety Code section 128552, subdivision (d), if certified translations in those languages are made available to the local law enforcement agency at no cost. In keeping with the spirit of the law to advise individuals of their rights, a local law enforcement agency should not pre-populate or presuppose the responses in the consent form.

⁶ Records relating to ICE access as provided in the TRUTH Act include, but are not limited to, data maintained by the local law enforcement agency regarding the number and demographic characteristics of individuals to whom the agency has provided ICE access, the date ICE access was provided, and whether the ICE access was provided through a hold, transfer, or notification request or through other means.

year is required to hold at least one community forum open to the public during the following year. (Gov. Code, § 7283.1, subd. (d).)

VII. SB 54 Requires State Prisons Provide Similar Information Required by the TRUTH Act

The Values Act requires CDCR to provide an individual in custody with a written consent form and other notifications before allowing an interview between ICE and the individual regarding civil immigration violations. Specifically, this form must explain the purpose of the interview, that the interview is voluntary, and that the individual may decline to be interviewed or may choose to be interviewed only with their attorney present. The consent form must be available in English, Spanish, Chinese, Tagalong, Vietnamese and Korean. The CDCR must also give a copy of an ICE hold, notification, or transfer request to the individual and inform the person whether the agency or CDCR intends to comply with the request. (Gov. Code, § 7284.10.)

In addition, CDCR cannot restrict access to certain opportunities based solely on an individual’s citizenship or immigration status (Gov. Code, § 7284.10, subd. (b)(1)), and cannot consider citizenship or immigration status in determining an individual’s custodial classification level. (Gov. Code, § 7284.10, subd. (b)(2).)

VIII. Repeal of Health and Safety Code section 11369

SB 54 also repeals Health and Safety Code section 11369, which required an arresting law enforcement agency to notify the appropriate federal agency if it believed that a person arrested for certain drug violations may not be a United States citizen.

Sincerely,



KEVIN GARDNER, Chief
Division of Law Enforcement

For XAVIER BECERRA
Attorney General



STAFF REPORT

City Council

Meeting Date:

8/27/2019

Staff Report Number:

19-172-CC

Regular Business:

Approve updates to the City's rail policy to consider the Dumbarton transportation project and Caltrain business plan efforts

Recommendation

Staff recommends the City Council approve updates to the City's rail policy and position statement (Attachment A) to consider the Dumbarton transportation project and Caltrain business plan efforts.

Policy Issues

This action is consistent with circulation element policies:

- CIRC-5.3 (rail service). Promote increasing the capacity and frequency of commuter rail service, including Caltrain; protect rail rights of way for future transit service; and support efforts to reactivate the Dumbarton corridor for transit, pedestrian, bicycle and emergency vehicle use.
- CIRC-5.4 (Caltrain enhancements). Support Caltrain safety and efficiency improvements, such as positive train control, grade separation (with a priority at Ravenswood Avenue), electrification, and extension to Downtown San Francisco (Transbay terminal), provided that Caltrain service to Menlo Park increases and use of the rail right of way is consistent with the City's rail policy.
- CIRC-5.5 (Dumbarton corridor). Work with SamTrans and appropriate agencies to reactivate the rail spur on the Dumbarton corridor with appropriate transit service from Downtown Redwood City to Willow Road with future extension across the San Francisco Bay.

The City Council first adopted a rail policy and position statement in 2012 to outline the mission of the Rail Subcommittee and the City's policy and position on rail. Amending this policy requires City Council action.

Background

On October 30, 2012, the City Council adopted the Rail Subcommittee mission statement, statement of principles and the City Council position statement on rail issues. These documents were prepared and adopted in response to high speed rail and Caltrain blended system preliminary planning concepts at that time. The City Council has updated the rail policy and position statement twice since 2012. The first update occurred in May 2015 to consider elevated rail options to be studied in the Ravenswood Avenue railroad crossing study. The current rail policy (Attachment A) was adopted in May 2018 to clarify the City's position on the number of tracks within Menlo Park and make other grammatical corrections to improve readability. The policy is specific to considerations to the Caltrain corridor, and does not currently provide a position on rail service along the Dumbarton corridor. A map of the rail corridors is included as Attachment B.

Analysis

Since May 2018, two significant regional planning efforts are underway to consider future rail service needs in the area. Caltrain is currently preparing a business plan to develop a future service vision and the infrastructure and business needs to achieve it. Development of the business plan began in 2018, and adoption of the service vision by the Caltrain Joint Powers board is anticipated in late 2019. Adoption of the business plan is anticipated in 2020. Several elements of the business plan may affect Menlo Park, including train service frequency, infrastructure needed to support increased train service (such as passing tracks,) grade separations and crossing improvements, and the amount of time that trains stopping in or passing through Menlo Park interrupt traffic flow. On July 22, Caltrain released their staff recommendations for the “moderate” growth scenario, adding 2 trains per hour for a total of up to 12 per hour (this includes 4 high-speed rail trains and 8 Caltrain trains.) More information on the Caltrain business plan is available in Attachment C. Staff is coordinating with Caltrain staff to attend an upcoming Rail Subcommittee meeting to share more information about the business plan. In addition, in July, the San Mateo County grand jury issued a report on grade separations along the Caltrain line; Caltrain must respond to the report by March 2020. Staff expects to provide a brief update to the Rail Subcommittee at an upcoming meeting.

The Dumbarton transportation project is evaluating transit service in the Dumbarton corridor connecting Redwood City and Union City. On December 6, 2017, the San Mateo County Transit District (SamTrans) board of directors approved the Dumbarton transportation corridor study, which assessed various improvements to the highway and railroad alignments, including reactivation of rail service. On June 6, 2018, the SamTrans board of directors entered into an agreement with a development team, Cross Bay Transit Partners LLC, to form a public-private partnership to explore alternatives for a high-capacity public transit system along the Dumbarton corridor. Cross Bay Transit Partners is a partnership between Plenary Group and Facebook Inc. Cross Bay Transit Partners is currently completing early project planning, and recently hosted a series of community outreach meetings in February and March. One of the meetings was held at the Menlo Park Senior Center and was attended by over 100 attendees, including many residents and City staff. Cross Bay Transit Partners’ current schedule shows the environmental analyses, technical feasibility studies, and financial analyses are being initiated, with an anticipated completion in mid to late 2020, environmental certification in 2021, and construction in 2022. Several elements of the project may affect Menlo Park, including provision of rail service, transit stop locations, the type of transit service provided, service frequencies, noise and vibration impacts, grade separations and crossing improvements, and interruption of traffic flow. More information about the Dumbarton transportation project and Cross Bay Transit Partners is available in Attachment D.

Given the context of these two ongoing efforts, staff sought direction from the City Council Rail Subcommittee to consider a process to update the City’s rail policy and position statement. On April 22, the Rail Subcommittee met and confirmed the approach to update the rail policy to address both Caltrain and Dumbarton corridors so that all rail issues are addressed in a single document. This should facilitate and improve community access to the relevant information, and ensure a consistent approach is taken to both corridors.

Draft rail policy and position statement modifications

A draft of the suggested rail policy and position statement modifications is included in Attachment E. These modifications are based on feedback and public comment received at the April 22 Rail Subcommittee meeting and staff’s recommendations based on feedback provided during prior community meetings on the Caltrain business plan and Dumbarton transportation project. In summary, staff recommends the following modifications for consideration:

- Amend the statement of principles for rail (Page 2) to incorporate:
 - Quality of life in residential neighborhoods in the definition of the character of Menlo Park

- Reference to Dumbarton corridor under the definition of economic vitality, long-term potential of the rail corridor, and in the implied “decision criteria”
- The addition of implied “decision criteria” to consider sustainability in accordance with the City’s climate action plan goals, improving safety in accordance with the 2016 circulation element goals and policies, and preservation of quality of life in residential neighborhoods
- Amend the City Council position summary (Page 3) to establish two summaries; one for the Caltrain corridor and one for the Dumbarton corridor
- For the Caltrain City Council position summary, add a position statement that supports maximizing the number of Caltrain trains that stop within Menlo Park (as opposed to passing through Menlo Park)
- For the Dumbarton City Council position summary, add position statements that support Dumbarton rail, under the following conditions:
 - Rail service is provided by electric trains, minimizing emissions, noise and vibration impacts on adjacent residential neighborhoods
 - Minimal right of way acquisition is needed for the project
 - Railroad/roadway grade separations should be provided as part of the project:
 - At Marsh Road, Willow Road and University Avenue
 - Minimizing local circulation and access impacts
 - Provide an opportunity for improved bicycle and pedestrian access and connections
 - Best practice at-grade crossing safety improvements to the rail crossing at Chilco Street should be provided as part of the project
 - Transit service is limited to rail within the existing right of way owned by SamTrans along the Dumbarton corridor
 - A bicycle and pedestrian pathway along the existing right of way is fully explored as part of the project and is not precluded unless adequately disclosed through the project development process
 - A transit stop is provided within Menlo Park, with the preferred location on the east side of the Willow Road intersection with the Dumbarton rail, as shown in Attachment B
 - Advocate for maximizing the number of trains that stop within Menlo Park (as opposed to passing through Menlo Park)

Complete Streets Commission feedback

On May 8, the Complete Streets Commission provided feedback on the draft policy recommendations. Three community members spoke or wrote in providing feedback on the draft policy, including recommendations for a station to be considered near the Onetta Harris Community Center to better serve the Belle Haven neighborhood, requesting clarifications on freight service, encouraging a quiet zone and considering a new roadway connection from Willow Road to El Camino Real. The Commission voted unanimously (9-0) to approve a recommendation to the City Council to approve the draft policy with the following additions:

- Increase ridership and maximize traffic benefit
- Modify service patterns for weekday off-peak and weekend hours
- Provide feeder service for first and last mile connections
- Consider feasibility of a second Dumbarton rail station in the Belle Haven neighborhood
- Encourage moderate fares for both high ridership and accessibility for people across the income spectrum

These changes have been incorporated into the draft policy included as Attachment E.

Rail Subcommittee feedback

On July 16, the Rail Subcommittee provided feedback on the revised draft policy, and a recommendation to advance recommendations to the City Council later this summer, in advance of environmental review of the Dumbarton project and before the Joint Powers (Caltrain) board’s adoption of a service vision for the Caltrain business plan. The direction provided by the Subcommittee included:

- Revise the staff report description of the number of attendees at Dumbarton corridor meeting at the Menlo Park Senior Center
- Revise the reference to the provision of a sound wall adjacent to the Dumbarton corridor in the rail policy and position statement
- Maintain residential quality of life in the draft rail policy
- Itemize the remaining comments for consideration when the policy is brought forward to the City Council

The first three items have been incorporated into the staff report and revised Attachment E. Attachment F includes draft meeting minutes of the July 16 meeting minutes, which itemize the comments from the meeting, as requested.

Action requested

Staff recommends the City Council adopt the updated rail policy and position statement.

A summary of schedule milestones is provided below. Following City Council adoption, staff will update the policy on the City website and apply it to guide feedback to the Joint Powers Board and San Mateo County Transit District and other stakeholders regarding projects in the Caltrain and Dumbarton corridors.

Task	Date
Rail Subcommittee: provided feedback on approach	April 22, 2019
Complete Streets Commission: reviewed and recommended draft policy modifications	May 8, 2019
Rail Subcommittee: review and recommend draft policy modifications	July 19, 2019
City Council: adopt updated rail policy	August 27, 2019

Impact on City Resources

There is no impact on City resources.

Environmental Review

Updates to the City’s rail policy is not a project under the California Environmental Quality Act Guidelines. Any future project actions will comply with environmental review requirements under the California Environmental Quality Act.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. A postcard in English and Spanish was mailed to residences in the Lorelei Manor, Flood Triangle, Suburban Park and Belle Haven neighborhoods before the Complete Streets

Commission meeting in May to gather input on this item.

Attachments

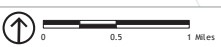
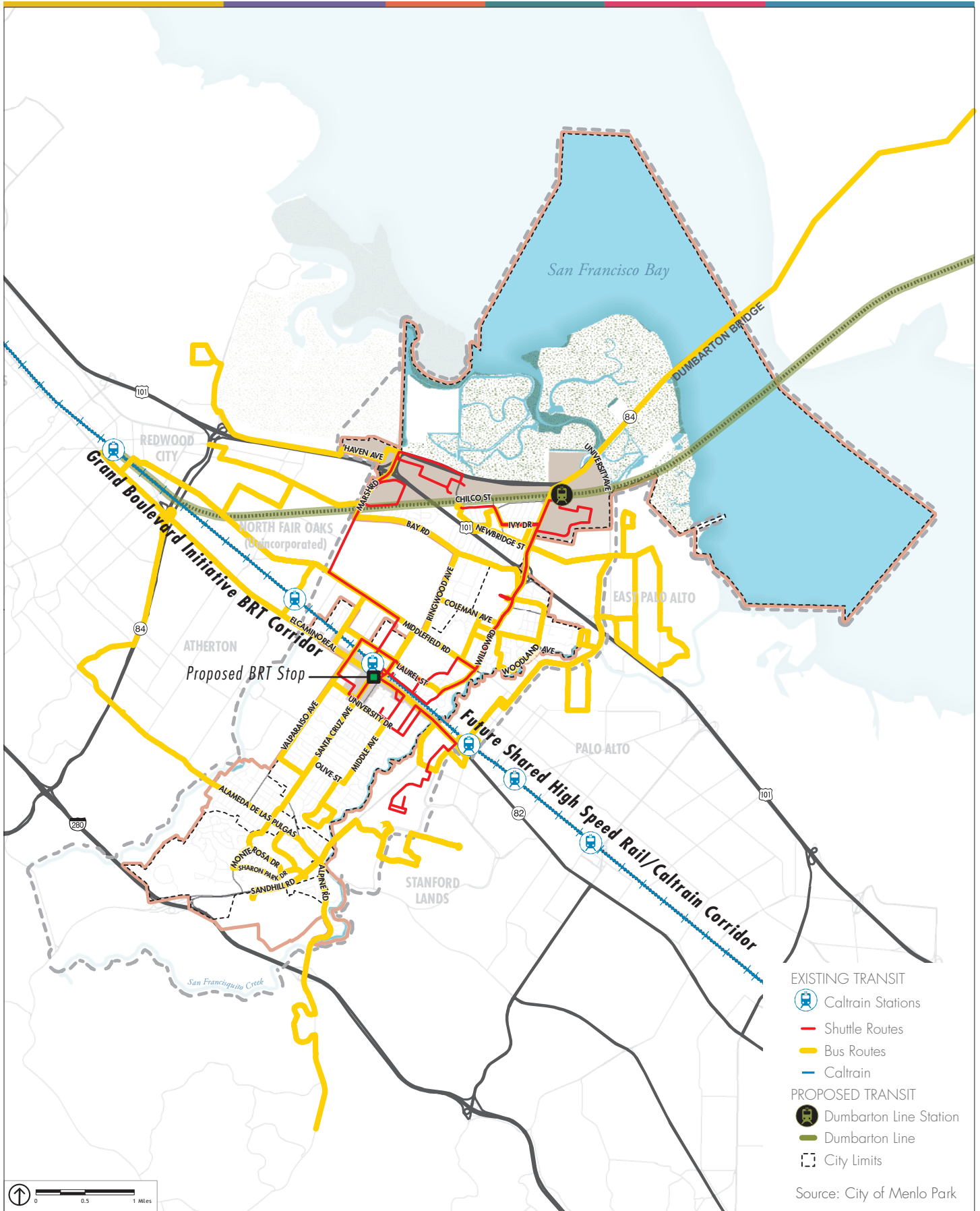
- A. Hyperlink – rail policy and position statement: menlopark.org/railpolicy
- B. Map of Caltrain and Dumbarton rail corridors within Menlo Park
- C. Hyperlink – Caltrain business plan: www.caltrain2040.org/
- D. Hyperlink – Cross Bay Transit: <https://crossbaytransit.com/>
- E. Draft rail policy and position statement modifications
- F. Draft Rail Subcommittee meeting minutes from July 16, 2019

Report prepared by:

Nicole H. Nagaya, Assistant Public Works Director

Report reviewed by:

Justin I. C. Murphy, Deputy City Manager



City of Menlo Park
City Council Rail Subcommittee
Mission Statement

The City Council Rail Subcommittee will advocate for ways to reduce the negative impacts and enhance the benefits of Rail in Menlo Park. The Subcommittee will ensure all voices are heard and that thoughtful ideas are generated and alternatives vetted. It will collaborate with other local and regional jurisdictions in support of regional consensus of matters of common interest related to Rail. Additionally, the subcommittee will support City Council planning efforts and decision making on Rail-related issues with information, research and other expertise.

City of Menlo Park Statement of Principles for Rail

The City of Menlo Park City Council Rail Subcommittee works to protect and enhance the character of Menlo Park and the community's economic vitality while supporting the conditions needed to maximize the local benefits and the long-term potential of rail.

- The character of Menlo Park includes:
 - Our connected, walkable, bikeable, safe and accessible neighborhoods, parks, commercial areas and civic center
 - Our vision for:
 - the downtown and El Camino Real including improved east-west mobility for all modes of travel as detailed in the El Camino Real/Downtown Specific Plan
 - The Bayfront area as outlined in the General Plan Land use and Circulation elements
 - Preservation of the quality of life in residential neighborhoods throughout the City
- The community's economic vitality includes:
 - The continued success of our small and large businesses
 - The maintenance of our property values
 - Rail agencies responsibly mitigating impacts of rail, including but not limited to, High Speed Rail, Caltrain, Cross Bay Transit Partners, and freight
- The conditions needed to maximize the long-term potential of rail corridors in the City including:
 - Increasing ridership and maximizing traffic congestion reduction benefits of transit
 - Improvements to connectivity; rail unifies rather than divides
 - Improvements to local transit and feeder service for first- and last-mile connections
 - Transit service during weekday peak- and off-peak hours and weekends
 - The negative physical and social impacts of rail are minimized and the positive impacts are enhanced by using context sensitive design solutions
 - Consider all reasonable alternatives including those discussed previously by Menlo Park
 - Moderate fares that encourage both high ridership and accessibility for people across the income spectrum

Implied "decision criteria" from these principles might include:

Does the alternative align with or support:

- The goals and policies of the Circulation Element?
- The vision and policies of the El Camino Real/Downtown Specific Plan?
- The sustainability goals of the Climate Action Plan?

Whether the alternative protects or enhances:

- Connectivity to additional modes of travel/ accessibility to city locations?

City of Menlo Park

- Walk-ability? Bike-ability?
- Transit ridership and traffic congestion reduction benefits of transit?
- The economic vitality of businesses?
- Quality of life in residential neighborhoods? Property values?
- Safety along and across the rail corridors?
- Local transit opportunities? The level of transit service?

City of Menlo Park Council Position Summary

The following bullet points clarify the Council's position on rail through Menlo Park.

Caltrain and High Speed Rail corridor

- The City opposes any exemption or elimination of any part of the CEQA review for the High Speed Rail Project environmental review process
- The high speed rail within Menlo Park should be in a two-track envelope system, and stay within the existing Caltrain right-of-way (with very minor exceptions such as for Caltrain electrification equipment, and in very limited locations)
- No Environmental Impact Report should go forward which increases the rail corridor to greater than two tracks in Menlo Park
- The City approves of the currently approved blended system but opposes passing tracks located in Menlo Park
- The City is interested in quiet zones for the rail corridor in Menlo Park
- The City intends to pursue a grade separation project with a focus on the Ravenswood Avenue crossing that can be constructed independent of the blended system, High Speed Rail and any passing track scenario
- Our strategy is to work cooperatively with the blended system planning efforts while preventing an at-grade or elevated 3 or 4 track system through Menlo Park
- Support maximizing the number of Caltrain trains that stop within Menlo Park (as opposed to passing through Menlo Park)

Dumbarton corridor

The City supports Dumbarton Rail, under the following conditions:

- Rail service is provided by electric trains, minimizing emissions, noise and vibration impacts on adjacent residential neighborhoods and freight service levels do not increase over existing levels. Consider sound walls to minimize noise impacts on adjacent residential neighborhoods.
- Minimal right-of-way acquisition is needed for the project
- Railroad/roadway grade separations should be provided as part of the project:
 - At Marsh Road, Willow Road and University Avenue
 - Minimizing local circulation and access impacts
 - Provide an opportunity for improved bicycle and pedestrian access and connections
- Best practice at-grade crossing safety improvements to the rail crossing at Chilco Street should be provided as part of the project, including potential for a quiet zone
- Transit service is limited to rail within the existing right-of-way owned by Samtrans along the Dumbarton corridor
- A bicycle and pedestrian pathway along the existing right-of-way is fully explored as part of the project and is not precluded unless adequately disclosed through the project development process
- A transit stop is provided within Menlo Park, with the preferred location on the eastern side of Willow Road at the intersection with the Dumbarton rail, as shown in the City's Circulation Element (Figure 4), and considering a second stop near the Belle Haven neighborhood
- The project does not preclude a future direct rail connection to the southern end of the

July 11, 2019

City of Menlo Park

Caltrain line at the wye junction near Middlefield Road in Redwood City

- The City supports maximizing the number of trains that stop within Menlo Park (as opposed to passing through Menlo Park)



SPECIAL MEETING MINUTES

Date: 7/16/2019

Time: 5:00 p.m.

**City Hall/Administration Building – “Downtown” Conference Room, 1st floor
701 Laurel St., Menlo Park, CA 94025**

A. Call to Order

Mayor Mueller called the meeting to order at 5:18 p.m.

B. Roll Call

Present: Mueller, Combs

Absent: None

Staff: Senior Transportation Engineer Angela Obeso, Assistant Public Works Director Nikki Nagaya, Senior Project Manager Morad Fakhrai, City Manager Starla Jerome-Robinson

C. Regular Business

- C1. Approve the City Council Rail Subcommittee special meeting minutes of April 22, 2019 meeting (attachment)

By acclimation, the Subcommittee approved the minutes.

- C2. Recommend to City Council proposed updates to the City’s rail policy and position statement (Staff Report #19-003-CC RS)

Staff Nagaya provided a presentation (Attachment).

- Mickie Winkler spoke recommending a phased approach to providing rail service, with service between Redwood City and Willow Road as a first phase.
- Henry Riggs spoke concurring with a phased approach to providing rail service, and recommending a second stop in Menlo Park be considered at Marsh Road near Marsh Manor to better serve Lorelei Manor, Flood Triangle and Friendly Acres.
- Ken Southerland spoke in support of the additions referencing residential quality of life and asked a question regarding treatments for pedestrian crossings near railroad crossings.
- Adrian Brandt spoke in support of a shared use pathway adjacent to the rail and recommended not requiring grade separations as a condition of the Dumbarton corridor project.
- Jen Wolosin shared that she attended a Silicon Valley Bicycle Coalition tour of SMART Rail in Marin County with many parallels to the potential shared use pathway adjacent to the Dumbarton corridor. She recommended better defining residential quality of life. She also requested that the staff report be revised in reference to the Dumbarton corridor meeting at the Menlo Park Senior Center, as more than “several” residents attended the meeting.
- Drew (last name not provided) spoke requesting that the proposed transit service diagram from the Circulation Element, as shown in the presentation, be amended to show service on the Dumbarton wye (rail junction) connecting south on the Caltrain corridor. He also recommended

revisions to the rail policy regarding maximizing service in Menlo Park, as express or skip-stop service may provide a better service to Menlo Park than if every train stopped at the Menlo Park station.

- Steve Van Pelt spoke requesting a revision to Circulation Element policy CIRC-5.3 in the staff report remove reference to “commuter” rail, recommended considering buses in the Dumbarton corridor as a first phase, and requested rail service be electrified.

Mayor Mueller facilitated a Subcommittee discussion and the following direction was provided:

- Revise the staff report description of the Dumbarton corridor meeting at the Menlo Park Senior Center
- Revise the reference to the provision of a sound wall adjacent to the Dumbarton corridor in the rail policy and position statement
- Maintain residential quality of life in the draft rail policy
- Itemize the remaining comments for consideration when the policy is brought forward to the City Council

C. Provide direction on next steps for the Ravenswood Avenue Railroad Crossing project (Staff Report #19-004-CC-RS)

Staff Obeso provided a presentation (Attachment).

- Steve Schmidt requested clarification on the status of the tunnel scope, as Palo Alto recently removed a citywide tunnel from further consideration. He requested the scope of study of a fully elevated grade separation option be broadened to start at the northern City border with the Town of Atherton to minimize impacts on safety, circulation. He also requested that a fully elevated option could consider closing Encinal Avenue completely, or to vehicle traffic while maintaining pedestrian and bicycle access. He stated this alternative should be compared objectively to other feasible alternatives in the environmental review phase.
- Ken Southerland stated that an elevated railroad structure does not belong next to residential uses. He requested that the scope be amended to produce similar examples that are comparable to Menlo Park prior to embarking on a detailed engineering evaluation to be more cost effective. He also requested that visual simulations be prepared showing what a fully elevated structure would look like from a resident’s back yard.
- Jen Wolosin requested clarification on what is proposed to be studied in regard to a fully elevated option. She also spoke in support of removing a tunnel from further consideration, as the cost is great and the urban-style densities needed to support financing such a proposal were too great. She also requested equal consideration of potential impacts for all residential units, whether single- or multi-family.
- Henry Riggs spoke requesting a standard measure for criteria in reference to the alternatives comparison chart, emphasizing the need for east-west connectivity. He supported elimination of a tunnel from further consideration. He also requested the scope of work for further study of a fully elevated option be amended to provide a menu of options to achieve the goals of a fully elevated alternative: Improving connectivity, minimizing excavation, reducing the construction schedule, and preventing unknowns due to utility relocation costs. He also requested clarification whether the scope of work anticipated that Encinal could rise minimally, to maintain an at-grade crossing, and that Transportation staff in lieu of the technical consultant prepare the analysis. He also inquired about options for aesthetic improvements for all grade separation options.
- Katie Behroozi spoke in support of the connectivity improvements that are incorporated into the hybrid or split elevation alternative. She also inquired about options for aesthetic improvements for all grade separation options.
- Adrian Brandt shared information regarding the service levels under consideration in the Caltrain

Business Plan, and recommended that a plan for eliminating the at-grade crossing at Encinal Avenue be incorporated to address safety and horn noise considerations. He also described a method used to estimate an approximate height of the rail tracks at Encinal Avenue if rise in elevation began at the Atherton border, suggesting a structure could not achieve significant elevation due to design limitations of the required rail vertical curves (no more than approximately 10 feet high structure would be possible, according to Mr. Brandt). He also spoke regarding the potential construction impacts and utility relocations.

- Mickie Winkler spoke in support of adding a consideration of closing Encinal Avenue to the study.
- Drew (last name not provided) spoke regarding construction impacts and the potential to consider a single shoofly track in lieu of two tracks.

Mayor Mueller facilitated a Subcommittee discussion and the following direction was provided:

- Eliminate the tunnel option from further study in the scope of work, given the information provided by Professor Steven Bennon of the Stanford Global Projects Center at the May 21, 2019 City Council meeting
- Concur with geographic segments presented based on adjacent land uses to evaluate the options in the future
- Incorporate the ability to provide a menu/iterative analysis of possible fully elevated options, including starting rise of the railroad tracks at Atherton border and nearer to Encinal Avenue, into the scope of work and evaluate the pros and cons of each
- Include assessment of beautification/aesthetic improvements options and a cost comparison to “base” case
- Include assessment of construction impacts in each alternative

C4. Update on Middle Avenue Pedestrian and Bicycle Crossing project (attachment)

Mayor Mueller left the meeting at 6:26pm, but requested informational updates continue and Councilmember Combs facilitate public comment and discussion, as no further Subcommittee direction was requested.

Staff Obeso provided the presentation (Attachment).

- Steve Van Pelt inquired about coordination with Caltrain electrification.
- Drew (last name not provided) inquired about the potential to relocate the crossover tracks.

C5. Update on Caltrain Business Plan and Electrification project (attachment)

Staff Obeso provided the presentation (Attachment) and shared Caltrain staff would attend a future Rail Subcommittee meeting in August or September to provide more information.

- Adrian Brandt spoke regarding the proposed Caltrain service frequencies at the Menlo Park station.

C6. Update on California High Speed Rail, San Jose to San Francisco project segment (attachment)

Staff Obeso provided the presentation (Attachment).

- Adrian Brandt spoke regarding the proposed HSR-staff recommended alternative, which recommends location of the Brisbane maintenance yard, no peninsula passing tracks.
- Dana Hendrickson expressed thanks to the Rail Subcommittee for a productive meeting.

D. Adjournment

Councilmember Combs adjourned the meeting at 6:40 p.m.

THIS PAGE INTENTIONALLY LEFT BLANK



STAFF REPORT

City Council

Meeting Date:

8/27/2019

Staff Report Number:

19-176-CC

Regular Business:

Select concept 3 as the preferred alternative for the Middle Avenue pedestrian and bicycle rail crossing project

Recommendation

Staff recommends that the City Council select concept 3 (Attachment A) as the preferred alternative for the Middle Avenue pedestrian and bicycle rail crossing project in order to continue to the next phase of environmental review and design. Concept 3 is an undercrossing approximately 10-12 feet below street and plaza elevation that aligns with a proposed raised crosswalk on Alma Street and is offset from Middle Plaza. This crossing location is outside of the existing Caltrain crossover tracks, therefore is preferable to Caltrain for constructability and maintenance reasons, and has the benefit to the City that construction could potentially be performed with single tracking of the rail service by closure of one set of tracks at a time for approximately 2-3 days each.

Policy Issues

The City Council identified the Middle Avenue pedestrian and bicycle rail crossing project (project) as a high priority project in the 2019 work plan March 12. The project is consistent with policies stated in the 2016 General Plan Circulation Element, the El Camino Real and Downtown specific plan and is included in the City's capital improvement program (CIP.) These policies seek to maintain a safe, efficient, attractive, user-friendly circulation system that promotes a healthy, safe and active community and quality of life throughout Menlo Park.

Background

Staff provided an informational update on the project to City Council April 9. Since that time, staff has been coordinating closely with Caltrain staff on the design and construction options.

The City Council Rail Subcommittee received a project update April 22. At the meeting, community members asked questions regarding how the various Ravenswood Avenue railroad crossing study alternatives, including a Caltrain tunnel and a fully elevated rail option, would impact concepts for the Middle Avenue crossing.

The second project community meeting was held May 13 and a summary of that meeting and a copy of the presentation are available on the project webpage (Attachment B.)

Staff provided another update on the project to City Council June 4. A brief summary of the community meeting was included in the analysis section of the June 4 staff report. The analysis section of that staff report also included a discussion of the Ravenswood Avenue railroad crossing study tunnel and fully elevated rail options as requested by the Rail Subcommittee, as well as updates on the construction approach and overall project progress.

On July 10, the Complete Streets Commission received a staff presentation on the project and discussed recommendations for City Council to consider. The staff report (Attachment C) summarizes the project status and staff recommendations. The commission passed the recommendation (6-0-0-3) that City Council select concepts 1 and 3 to advance for the environmental studies for the project. The commission also prepared a summary of additional feedback on the project for City Council, included as Attachment D. The feedback included the following points:

- Turns and path design should accommodate cargo bicycles and trailers;
- Overall design should consider safety functionality such as sightlines and dark areas;
- Bicycle tracks/ramps should be provided on stairs;
- Crosswalks on Alma Street should be optimized and should minimize the incentive to jaywalk;
- Staff should report to City Council regarding construction time, risk and train operational impacts to minimize risk to cost and schedule of the project;
- Mirrors should be considered to improve visibility;
- Burgess Park paths and bike rack locations should be evaluated for improvements;
- Parking restrictions should be considered along Alma Street;
- Bicycle and pedestrian improvements at nearby intersections and streets should be considered; and
- Utility relocation potential impacts should be clearly understood to avoid construction complications.

Staff provided a brief informational update to the City Council Rail Subcommittee July 16. Attachment E includes the presentation presented that evening.

Analysis

The current study is evaluating benefits and challenges of three undercrossing concepts near Middle Avenue. This evaluation is described in detail in the July 10 staff report to the Complete Streets Commission (Attachment C.) Below is a summary:

Concept 1:

- Trench tunnel construction method, approximately 10-11 feet below street and plaza elevation
- Tunnel aligns with Middle Plaza
- Tunnel coincides with crossover tracks, not ideal for Caltrain
- Tunnel construction requires closure of both tracks for approximately 3-4 days, no single tracking possible

Concept 2:

- Jack and bore tunnel construction method, approximately 20 feet below street and plaza elevation
- Tunnel aligns with Middle Plaza
- Tunnel coincides with crossover tracks
- Tunnel construction does not require replacement of tracks

Concept 3:

- Trench tunnel construction method, approximately 10-11 feet below street and plaza elevation
- Tunnel aligns with proposed raised crosswalk on Alma Street
- Tunnel is outside of crossover tracks, therefore is preferable to Caltrain
- Tunnel construction requires closure of at least one set of tracks for approximately 2-3 days each, single tracking may be possible

All three concepts will require a partial property acquisition on the west side of the tracks. Staff is having on-

going discussions with the affected property owner about the project and is scheduled for a City Council closed session August 20 for authorization to negotiate with the property owner as this project progresses.

There are multiple elements still being reviewed by and coordinated with Caltrain related to construction methods and scheduling. City staff and Caltrain staff are currently coordinating on the construction method of the tunnel and the construction requirements within an electrified rail corridor. Staff will continue to work with Caltrain to minimize impacts to the system while advancing and expediting construction as much as feasible.

City staff’s previous preferred concept was concept 1 due to public preference of the shallower tunnel and alignment of the tunnel with Middle Plaza. Since that time, City staff has met with Caltrain and learned of their preference for the tunnel location of concept 3, to avoid the crossover tracks and the potential construction impacts associated with the crossover track replacement. There are other benefits to the City with concept 3 such as alignment of the tunnel with the proposed raised crosswalk at Alma Street and more flexibility in tunnel construction durations and periods. For these reasons, City staff’s current recommendation is to proceed with environmental studies with concept 3 as the preferred alternative.

Concept 3 has been further revised to reflect some of the feedback from the Complete Streets Commission, for example, the ramp on the Alma Street side has been adjusted to connect to the raised crosswalk to Burgess Park. Other aspects of the commission’s feedback will be incorporated in the final design phase, including consideration of lighting locations, mirrors and sight distance features and parking restrictions on Alma Street and the surrounding area.

Next steps

Upon City Council’s selection of preferred concept, the project team will complete the environmental studies and the 30 percent design plans. Negotiations to acquire necessary right-of-way for the project will be pursued concurrently and will ultimately be brought to the City Council for approval of a purchase and sale agreement.

Staff is exploring options to expedite project delivery as soon as possible to take advantage of any open construction windows in coordination with Caltrain and their current electrification construction.

The San Mateo County Transportation Authority (SMCTA) grant was initially identified to expire in July 2018, and has received two time extensions to February 2020. It is critical to keep this schedule on track to ensure the project progresses, and in accordance with the funding agreement so that the City is reimbursed the awarded funds from SMCTA. The key milestones for the next steps of the project are summarized below:

Table 1: Key project milestones	
Coordination with Caltrain	On-going
City Council authorize negotiations to acquire right-of-way	August 20, 2019
City Council selects preferred crossing tunnel alignment and layout	August 27, 2019
Completion of environmental documents and 30% design plans (grant scope)	By February 2020
Complete design and obtain permits (Caltrain, Heritage tree removals, etc.)	Spring 2020 to mid-2021
Construction	Mid-2021 to mid-2022
Goal for undercrossing opening	Concurrent with Middle Plaza occupation, mid-2022

Impact on City Resources

The project was included in the CIP for fiscal year 2016-17, with a total budget in the amount of \$700,000. Through the Measure A pedestrian and bicycle program grant awarded for this project, the SMCTA will reimburse the City up to \$490,000.

Concept 3 is anticipated to have a construction cost estimate in the range of \$15-20 million, including right-of-way acquisition. As part of the 500 El Camino Real development agreement, Stanford is required to contribute up to \$5 million toward the project. For the remainder of the final design and construction costs, the City is exploring a combination of strategies to fund the project, including reducing the cost of the project through value engineering, contributing local funds from the City general fund and transportation impact fee program, and tracking grant opportunities that could supplement local City contributions to keep the project on the schedule above.

Environmental Review

The project will require a complete review under the California Environmental Quality Act. The environmental documentation for this project will be as an addendum to the El Camino Real and Downtown specific plan and will be completed as part of this scope of work. Staff will return to City Council in early 2020 for action on this addendum.

Public Notice

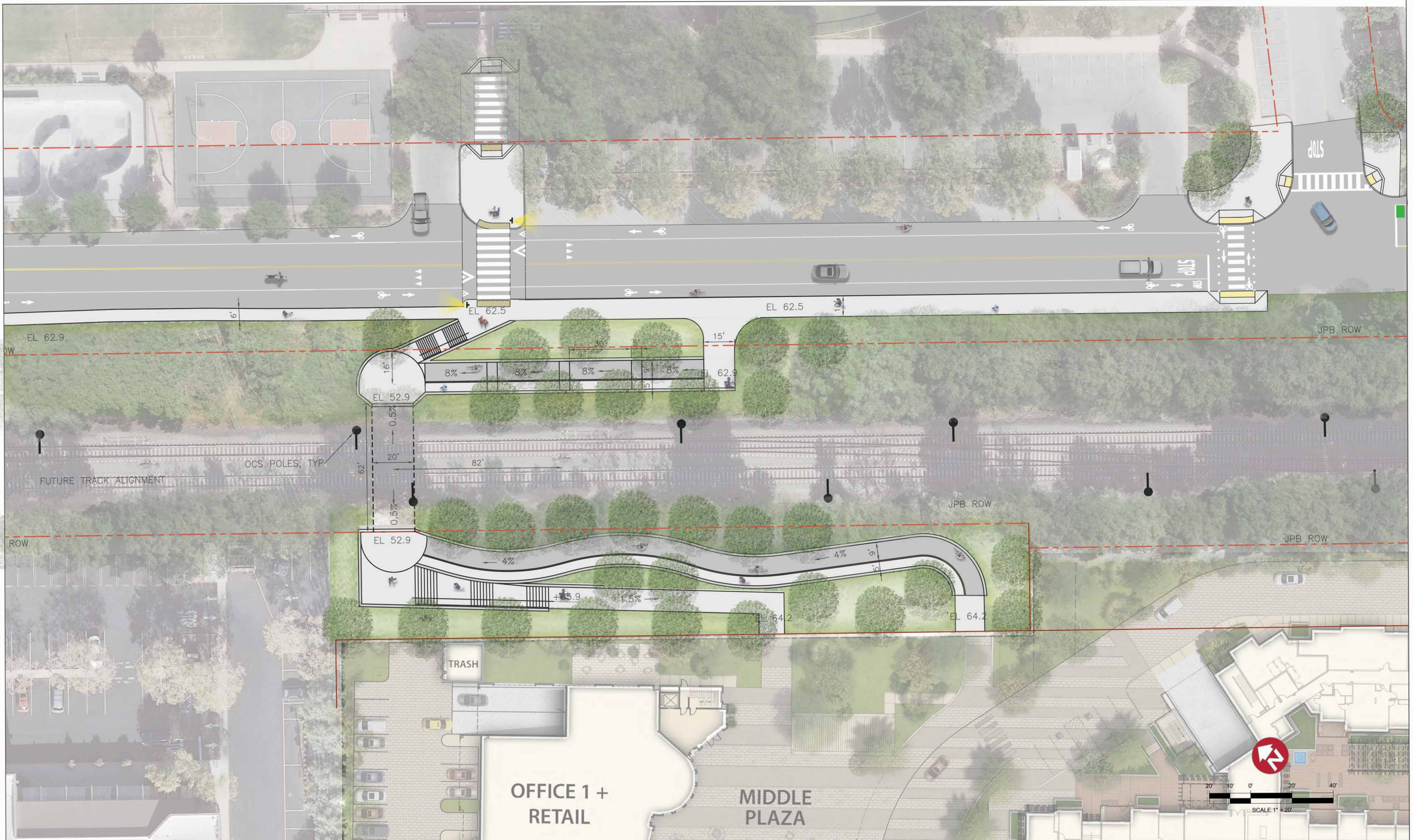
Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. Additionally, an email notification was sent to the public works projects interest list to notify the public about this agenda item.

Attachments

- A. Concept 3 exhibit
- B. Hyperlink – project webpage: menlopark.org/middlecrossing
- C. Hyperlink – Complete Streets Commission staff report and attachments, July 10: menlopark.org/DocumentCenter/View/22182/E2_19-009-CSC
- D. Complete Streets Commission motion amendment memo
- E. City Council Rail Subcommittee project update presentation slide, July 16

Report prepared by:
Angela R. Obeso, Senior Transportation Engineer

Report reviewed by:
Nicole H. Nagaya, Interim Public Works Director



DRAFT

Middle Avenue Bicycle & Pedestrian Rail Crossing
CONCEPT 3



MEMORANDUM

Date: 8/6/2019
To: Menlo Park Complete Streets Commissioners
From: Middle Avenue Crossing Project Ad-Hoc Committee
Re: Middle Avenue Crossing Project Commission Feedback Summary from July 10 Complete Streets Commission Meeting

OVERVIEW

On July 10, the Complete Streets Commission discussed the Middle Ave Crossing Project (see hyperlink to staff report below) as part of their regularly scheduled agenda (see hyperlink to agenda below). A large amount of feedback was agreed upon and shared with city staff, and an ad-hoc Middle Ave Crossing Project Committee was formed to formally summarize feedback to share with City Council and city staff.

As an expensive and important project, the ad-hoc committee wants to ensure that feedback is documented and shared. Recommendations are as follows.

RECOMMENDATIONS

- **Turns and path design.** City should design ramps so that they allow turning by cargo bikes and trailers (e.g. not sharp turns), and avoid sharp 90-degree turns. Additionally, straighter paths are better than curved, as they maximize the available path width, improving safety. Further, consideration should be given in the overall design to allow for longer sightlines and fewer hiding places.
- **Bike ramps on stairs.** Where stairs are built, the city should make it easy for cyclists to use the stairs if desired. Bike ramps designed for stairs can be a cheap, easy way to allow cyclists to walk their bike up or down a flight of stairs (see this example: <https://www.sarisinfrastructure.com/product/bicycle-access-ramp>). It also allows a pedestrian traveling with a cyclist who is walking their bike to travel together easily.
- **Crosswalks to Burgess.** Depending on the location of the crossing that is selected, there may be pedestrians and cyclists desiring to cross Alma between Burgess Park and the new crossing. The city should attempt to optimize the number and location of crosswalks to minimize the incentive to jaywalk.
- **Construction.** With regard to construction time and risk, staff should please report clearly to Council about the time and risk associated with the ability to continue to run trains with single tracking, vs. the need to shut down the train system for construction.

- **Mirrors.** Especially on the southbound El Camino side where more turns are present in the pathway designs, consider convex mirrors to address visibility concerns if needed, as are present at the California Avenue Caltrain pedestrian underpass.
- **Burgess improvements.** With the crossing done, there will be a lot more people using the paths within Burgess Park, so wider paths should be considered. The bike racks in the park are inadequate now and will even more in demand when the underpass is complete.
- **Parking restrictions.** The underpass will allow people coming from the east and working on the west side of the tracks to save time by parking along Alma and adjacent streets. There is already a problem with people parking on Alma and working in Palo Alto. The city should consider what parking restrictions are appropriate in advance of the crossing opening.
- **Wider connectivity.** The city should design the crossing and surrounding pathways, bike lanes/paths, crosswalks and sidewalks to maximize bike and pedestrian connectivity. The crossing will increase bike and pedestrians in the area, so additional bike/ped improvements at nearby intersections and on nearby streets should be considered.
- **Utilities relocation.** The city should have a clear understanding of the buried utilities to be impacted by the tunnel, and associated project complications experienced by other local cities attempting similar projects.

Hyperlinks:

- July 10, 2019 Complete Streets Commission - Middle Avenue Crossing Project Staff Report: <https://www.menlopark.org/DocumentCenter/View/22105/SR-19-009-CSC>
- July 10, 2019 Complete Streets Commission - Regular Meeting Agenda: https://www.menlopark.org/AgendaCenter/ViewFile/Agenda/_07102019-3304



MIDDLE AVENUE RAILROAD CROSSING PROJECT STATUS



- April 9 and June 4, 2019 – City Council updates
- July 10, 2019 – Complete Streets Commission recommendation
- August 27, 2019 – Return to City Council for preferred concept
- February 2020 – Complete environmental and 30%
- Spring 2020 – Secure funding for final design and construction



STAFF REPORT

City Council

Meeting Date:

8/27/2019

Staff Report Number:

19-181-CC

Regular Business:

Introduction of Ordinance No. 1057 adopting updated building codes and local amendments to the 2019 California Energy Code to require higher levels of building electrification and solar production for newly constructed buildings to reduce greenhouse gas emissions effective January 1, 2020

Recommendation

Staff recommends that the City Council introduce Ordinance No. 1057 adopting updated building codes and local amendments to the 2019 California Energy Code as written in Attachment A that would require higher levels of building electrification and solar production for newly constructed buildings to reduce greenhouse gas emissions effective January 1, 2020.

Policy Issues

Adoption of environmentally sustainable local amendments to the California Building Code (known as Reach Codes) is in the City Council 2019 work plan. Adopting local energy codes that reduce fossil fuels, such as natural gas used in buildings, aligns with the City's climate action plan to reduce greenhouse gas emissions (GHG) and the climate and sustainability Resolution (Resolution No. 6493) signed by the mayor on Earth Day that specifies working toward zero carbon (greenhouse gas free) buildings. The adoption of local building code standards or amendments requires City Council and state approval.

Background

California state building code and local Reach Code opportunity

Each local government is required by law to adopt new changes to the California Building Standards Code every three years (known as code cycles) proposed by the State. The next code cycle will take effect January 1, 2020.

This creates an opportunity to simultaneously adopt local building code amendments (known as Reach Codes) that are optional and exceed state code standards. Historically, cities/counties adopt amendments to the Energy (Title 24, Part 6) and California Green Building Standards- CALGreen (Title 24, Part 11) codes to increase environmental building standards that meet community environmental goals or aspirations.

Menlo Park has a climate action plan (Attachment H) with a GHG goal of 27 percent below 2005 levels by 2020. Buildings that use fossil fuels for energy contribute to climate change and increase GHG emissions. In 2013, energy usage from buildings accounted for 55 percent (196,000 tons) of the total community GHG emissions in Menlo Park.

As increased development occurs in the community, it is important to consider feasible and reasonable policies and regulations that will not increase the community's GHG in order to achieve or exceed the City's GHG reduction goals.

The City of Menlo Park has already taken significant steps in reducing GHG emissions by enrolling residents and businesses in Peninsula Clean Energy's (PCE) ECOplus program, which provides a minimum 53 percent of electricity from greenhouse gas free and renewable energy. This creates a significant Reach Code opportunity to reduce future GHG in new buildings by discouraging or eliminating the use of natural gas (fossil fuel that contributes to climate change.) This can be done by incentivizing and/or requiring new buildings to use more electric appliances to utilize clean renewable electricity sources rather than natural gas. All-electric buildings are defined as having electric appliances for space heating, water heating, clothes-drying, fireplaces and cooking appliances.

In addition, the state is requiring that power providers achieve 100 percent greenhouse gas (carbon) free electricity by 2045 (Senate Bill 100.) PCE also has a goal to be 100 percent greenhouse gas free by 2021, which would mean any new all-electric buildings in Menlo Park would be GHG free by 2021. This would maximize the use of clean and renewable energy currently available and in the future, ensuring that the climate action plan goals are met.

Environmental Quality Commission recommendations and City Council direction

The City Council included exploring potential Reach Codes in their 2019 work plan. They referred the matter to the Environmental Quality Commission (EQC) to study and provide a recommendation.

The EQC discussed Reach Codes at their February, May and June 2019 meetings. In June, they unanimously recommended the City Council consider requiring all new buildings to be at minimum electrically heated (space area and water,) and in addition, for nonresidential new buildings to produce a minimum amount of on-site solar power. This complements the new state requirement for on-site residential solar, assists with energy grid resilience, and helps to further reduce building operation cost.

On July 16, the City Council considered staff and the EQC's recommendation, and provided further direction to increase the standards to require all new nonresidential buildings to be all-electric. The City Council also directed staff to include an exception to allow gas-cooking appliances for profit restaurants open to the public. The draft ordinance in Attachment A incorporates the additional direction from the City Council. However, staff recommends that the City Council not allow an exception based on the environmental gains, performance evidence, and cost effectiveness of induction cooktops/ranges. Attachment F discusses the increasing trend in the food service industry to use induction stoves. In short, they are safer to operate, two to three times more efficient, and provide higher performance than gas and traditional electric cooktops.

In addition, the City Council directed staff to further analyze all-electric requirements for new life science laboratory buildings. Staff recommends providing an exception for building uses that involve life science laboratory work described in Attachment A and in the analysis below.

In order to meet the timeline to adopt Reach Codes, state building code changes, and receive the required state approvals by the start of the new code cycle January 1, 2020, the City Council needs to formally adopt Reach Codes in August/September 2019. The City has also received a \$10,000 grant from PCE to consider adopting Reach Codes.

Analysis

Menlo Park proposed Reach Code

Staff and the EQC explored four different options (Attachment B.) The preferred option was determined using the following criteria:

- Significant greenhouse gas reductions (greatest environmental benefit)
- Ease of implementation and efficiency for the development community and staff
- Community acceptance

The proposed option only applies to newly constructed buildings, and not additions or remodels. Tenant improvements that result from an all-electric core and shell would also be required to comply. Based on the evaluation criteria and City Council direction July 16, the proposed Reach Code for Menlo Park would:

1. Require new residential buildings (three stories or less) to be electrically heated or all-electric. This means at minimum new residential buildings need to use electricity for space heating and water heating in the building. Natural gas can still be used for cooking appliances, fireplaces, clothes dryers or other uses if desired.
2. Require new nonresidential and high-rise residential (greater than three stories) to be all-electric, including, but not limited to cooking appliances, fireplaces, clothes dryers with the following proposed exceptions:
 - Exception No. 1: Life science building uses may use natural gas for space heating if desired (see discussion below.)
 - Exception No. 2: For-profit restaurants open to the public may use natural gas cooking appliances. Based on further research, staff recommends this exception be removed based on evidence in Attachment F. Induction stoves are increasingly popular in the food industry, are more efficient and safer to operate.
 - Exception No. 3: Public agency owned and operated emergency operations centers (see discussion below.)
3. Require new nonresidential buildings and high-rise residential to have a minimum amount of on-site solar production defined in Table 1 below.

Table 1: Solar panel requirements for new nonresidential or high-rise residential buildings	
Square footage of building	Size of panel
Less than 10,000 sq. ft.	Minimum of 3-kilowatt PV systems
Greater than or equal to 10,000 sq. ft.	Minimum of 5-kilowatt PV systems
EXCEPTION: As an alternative to a solar PV system, the building type may provide a solar hot water system (solar thermal) with a minimum collector area of 40 square feet, additional to any other solar thermal equipment otherwise required for compliance with the California Energy Code	

The proposed Reach Code requirements are simple for permit applicants to understand and for the City to implement with current staff resources. It values strong residential preference for cooking with natural gas to continue. It also guarantees significant greenhouse gas reductions by discontinuing natural gas usage for a building’s space area and water heating. For example, 80 percent of energy consumed from a residential building is from heating space and water. This is an achievable standard to implement by the start of the code cycle January 1, 2020.

Exception for life science and emergency operating centers buildings

As a result of the July 16 City Council meeting, some community concerns were raised around the reliability of an all-electric laboratory or life science building where temperatures inside a building must be maintained consistently and without interruption for samples and experiments. Menlo Park has a life science district that provides incubator space for start-up companies and the advancement of medical research. Staff met with life science stakeholders that raised concerns at the July 16 City Council meeting to understand concerns and explore options for electrification of life science buildings.

The outcome of the meetings resulted in an understanding that an all-electric laboratory or life science building is technically feasible. A study performed for the University of California (UC) in 2017 (Attachment I) by Point Energy Innovations found that all-electric laboratories are cost effective. There is a higher upfront cost, but savings would be experienced over the life and operation of the buildings. As a result, the UC will no longer use fossil fuels (Attachment J) for on-site space or water heating in new or renovated buildings, including laboratories. However, Menlo Park's life science stakeholders are concerned that the technology's performance and grid reliability is unproven, and would result in undertaking challenging and expensive designs to manage risks.

It is recognized that a UC campus can utilize economies of a scale to achieve desired results whereas some laboratories and life science buildings in Menlo Park may not have the same circumstances as a UC campus. In addition, the tenants in the life science district change more frequently than in a UC campus system, requiring more flexibility to attract new tenants.

Based on what is known and the concerns raised, staff recommends an exception specifically for life science buildings and laboratories. The proposed code language defines a life science building or laboratory in Attachment A. These buildings would only receive an exception for space heating. Water heating would be required to be sourced from electricity. To grant the exception for space heating, each new building proposed for life science would need to provide evidence on the cost effectiveness and feasibility of an all-electric alternative design. It is anticipated that three new life science buildings will be built in the next code cycle (2020-2023) out of the 21 new buildings throughout the community (if approved by the City.) This exception would only apply to this building code cycle, and would be re-evaluated in 2022.

Emergency operations centers may also need natural gas access in the event of a disaster or emergency where electricity is not available. Emergency operation centers are limited and government run. Fire stations, police, and community centers are identified as emergency operation centers. Since local governments are the developers of emergency centers, there is greater authority and opportunity to explore all-electric alternatives for emergency centers as part of the public approval process. An exception is recommended if a cost effective and feasible all-electric option cannot be achieved with current technology or community needs.

State code and Reach Code process

The California Health and Safety Code enables local communities to modify the California Building Standards Code and adopt different or more restrictive requirements with the caveat that:

- The local modifications must be substantially equivalent to or more stringent than the building standards published by the California Building Standards Code; and
- The local jurisdiction is required to make specific or express findings that such changes are reasonably necessary because of local geological, climatic or topographic conditions.

These findings are included in Attachment A. If Reach Codes involve energy requirements, cities/counties need to file an application to the California Energy Commission (CEC) to prove that any local amendments

related to the energy code are cost effective and save more energy than those required by the state. This is done through submitting a cost effectiveness study to the CEC.

The County of San Mateo, PCE and TRC Advanced Energy (consultant) have partnered to offer cities in San Mateo County technical assistance in using the statewide Reach Code cost effectiveness study commissioned by PG&E and Southern California Edison Company to assist cities in applying for Reach Code approval from the CEC. The studies are linked in Attachment C and D. The County and PCE have also been engaging with the development community about the proposed Reach Codes by posting information on their websites and through public meetings.

Cost effectiveness study results

The studies in Attachment C and D present the results of research and analysis of the cost-effectiveness of building prototypes designed to be all-electric, produce on-site solar power, or have higher energy efficiency standards than state code.

Several building prototypes were analyzed including one-story and two-story single-family homes, two-story multifamily building, three-story office building, one-story retail building and a four-story hotel. The building prototypes are directly applicable to Menlo Park development. The City has had 100 new single-family homes constructed over the past three years. Additionally, planning permits that are in the queue may result in 21 new buildings that include office, multifamily, hotel and retail uses (if approved.)

The studies in Attachment C and D provide a tool for communities to select different Reach Code options ranging from increased energy efficiency to all-electric requirements. For Menlo Park, the study provides evidence that the proposed electric requirements for new buildings and solar production for nonresidential buildings are cost effective. A large portion of the savings results from not installing natural gas infrastructure in the first place.

Table 2 highlights the cost savings of all-electric over natural gas buildings.

Table 2: Cost savings between all-electric and natural gas building		
Building prototype	Construction savings	Operational savings
Single family home	Up to \$5,349	\$4,416
Multifamily- three stories or less (per dwelling unit)	Up to \$2,337	\$1,864
Office	\$82,330	\$52,738
Retail	\$24,111	\$22,661
Hotel	\$1.3 million	\$1.24 million

A majority of the cost savings is in the construction phase by avoiding the cost to install natural gas infrastructure. Additionally, building operational savings was calculated using time dependent valuation (TDV.) TDV was developed by the CEC to reflect time dependent value of energy including the long-term projected costs of energy, such as the cost of providing energy during peak periods of demand. It also provides a value for GHG produced and the projected costs (or savings.) TDV is expressed as the overall lifecycle savings of the buildings, which is 15 years for residential and 30 years for nonresidential.

If peak demand costs and greenhouse gas costs are removed from TDV, the cost to operate single-family, multifamily, offices and hotels would be increased. However, there are other important local factors to consider that would further reduce operational costs. For example, Menlo Park's electricity provider, PCE, has slightly lower electricity rates than PG&E rates that are used for the cost effectiveness study. Additionally, the study used the lowest energy efficient appliances allowable under federal law for the building prototypes. There are higher energy efficient and cost effective appliances available in the market that would further reduce utility bill costs for customers. In addition, producing on-site solar as required under the proposed reach code for new buildings would further reduce operation costs. Based on the PCE rates, nonresidential/high-rise residential on-site solar requirements, and higher energy efficient appliances available in the market, the expected average annual utility bill would be much lower than projected in the cost effectiveness study.

Overall, all-electric buildings are shown to be cost effective using the CEC methodology, and considering available appliance technology, on-site solar production requirements for nonresidential/high-rise residential, and lower electricity rates in Menlo Park.

In addition, a supplemental memo confirms that using electricity for cooktops/ranges and/or dryers for new nonresidential buildings and high-rise residential are cost effective and saves energy (Attachment E and F.) The memo also provides supplemental information for allowing a relaxed version of all-electric for new residential buildings that allows natural gas for cooking appliances, fireplaces, clothes dryers, or other uses not related to heating space or water. This memo will be submitted in addition to the cost effectiveness study to the CEC for considering approval of Menlo Park's Reach Codes.

Reach Code GHG avoided as a result of development

It is important to note that the State tends to increase environmental building standards with each new code cycle. One of the major changes in this upcoming code cycle is new low-rise residential developments (defined as three stories or less and including single family homes) must be solar ready or produce on-site solar in some instances.

It is possible that the next code cycle (effective January 1, 2023) will include all-electric requirements for buildings. The City could wait for the state to make changes rather than adopting a Reach Code. However, local cities have historically played a vital role in advancing state code changes by piloting policies and regulations that showcase advancements toward a carbon free, environmentally sound and energy efficient future.

In Menlo Park, the potential development that can occur in the next code cycle would result in an increase in GHG emissions, making it difficult for the community to meet the City's GHG reduction goals (as stated in the climate action plan.) Menlo Park is in a position to continue taking leadership by adopting the proposed Reach Codes.

Staff has analyzed potential future development projects that could occur in the next three-year code cycle. If all projects are approved, it could result in:

- One hundred new single-family residential buildings
- Twenty-one new buildings that include multifamily, office, research and development, retail and hotel

If these buildings were allowed to use natural gas, an estimated increase of 212,876 tons of GHG would result over the expected life of the buildings (30 years for residential and 50 years for commercial.) This equates to about 5,000 to 6,000 tons of additional GHG a year. While the annual additional GHG seem negligible, it is very difficult at a local level to reduce emissions even by one or two percentage with a new policy or program that addresses climate change. Fortunately, these actions do add up and are

complementary when combined with other climate action plan strategies, technology advancements, and regional and state regulatory changes.

It is also important to note that as the State and region quickly move toward renewable energy, future regulation will likely require electrification of buildings, particularly through retrofit requirements. Addressing electrification now for heating new buildings avoids hardships and costs for building owners in the future.

Other communities' Reach Code proposals

Over 50 communities in California are considering Reach Codes of varying levels that are a mix of mandatory and/or incentive type regulations. They range from increasing energy efficiency requirements, installing on-site solar production, pre-wiring for electric ready buildings, requiring more EV charging stations, to requiring all-electric buildings.

The following Bay Area cities are exploring Reach Codes:

City	City
Atherton	Milpitas
Belmont	Morgan Hill
Berkeley	Mountain View
Brisbane	Burlingame
Burlingame	Pacifica
Campbell	Portola Valley
Colma	Palo Alto
Cupertino	Redwood City
Gilroy	San Jose
Hillsborough	San Mateo
Los Altos	San Mateo County
Los Altos Hills	Sunnyvale
Millbrae	Woodside

Some cities propose to use an incentive type Reach Code approach to motivate applicants to build all-electric buildings. Under this incentive type regulation, the permit applicant can choose to build with higher energy efficiency standards that still allow natural gas, but cost more to build than an all-electric building.

It is important to note that cost savings is not always a motivating factor compared to consumer preferences. Many consumers/building occupants still prefer to use natural gas for cooking, which then leads to using natural gas for other building uses, such as for heating space and water.

For example, Sonoma Clean Power offered significant rebates to electrify the rebuild of homes after the 2017 wildfires. Permit applicants could choose between higher energy efficiency standards for a \$7,500 rebate or all-electric standard for a \$12,500 rebate. In addition to the all-electric rebate, a homeowner would

save on upfront construction costs by not installing natural gas infrastructure. As a result of the rebate program, only one-third of permit applicants or homeowners choose the all-electric home. It showed that incentive type regulations based on cost savings fall short on achieving the desired outcome.

Incentive based regulations also require significant resources to educate market and promote often with less results than requiring cost effective measures that achieve the desired result of reducing GHG. In addition, there can be unintended outcomes if permit applicants are able to find ways to work around the higher efficiency requirements. This has occurred in past attempts of incentivizing all-electric buildings.

Given the amount of development that could occur in the next code cycle for Menlo Park, it would be a high risk to rely on an incentive type regulation as a way to reduce GHG for new buildings.

As a result of City Council's direction July 16 to require electrification for new buildings, several nearby cities have started to explore requiring electrification rather than using an incentive based approach, and are waiting for Menlo Park's outcome to take further action.

On the same night that the City Council provided direction to require electrification of new buildings in Menlo Park July 16, the City of Berkeley adopted an ordinance banning natural gas infrastructure in new buildings that essentially require all-electric new buildings for residential and commercial uses. PG&E representatives spoke in support of the ordinance.

Community Engagement

Two articles regarding the proposed Reach Codes were published in The Almanac July 16 (Attachment K) and July 24 (Attachment L.) A project page (Attachment M) was published on the City's website in July. In addition, the planning division has been providing information to current planning permit applicants about the proposed Reach Codes that could impact their project when applying for building permits after January 1, 2020. Staff held three meetings with concerned stakeholders in the life science district to hear their concerns about requiring all-electric life science buildings, and as a result is proposing an exception for life science buildings (Attachment A.)

Written public comments were received after the July 16 City Council meeting and are included in Attachment G. One letter was from a community member in support of the proposed Reach Codes and a letter from Peninsula Builders Exchange was not in support. Peninsula Builders Exchange is concerned about increasing the cost of operating buildings due to the higher cost of electricity over natural gas.

Recommendation and next steps

Staff recommends the City Council adopt the proposed Reach Code language and findings as written in Attachment A, and consider removing the exception for restaurants open to the public. If approved, a second reading of the ordinance will be tentatively scheduled for September 24.

After adoption by City Council, staff will submit the proposed Reach Codes to the California Building Standards Commission and the CEC for approval. Approval can take up to 60 days. Staff has been working closely with the CEC to ensure that the proposed Reach Codes and cost effectiveness studies meet the state standards for adopting local energy code amendments. After approval by the CEC, staff will submit the proposed Reach Codes to the Building Standards Commission for final approval.

Staff will also develop an implementation plan over the next few months to prepare the necessary protocols and procedures for development applicants to comply with the Reach Codes. In addition, staff will inform the development community of the changes before the January 1, 2020 effective date.

The building code amendments discussed in this report focus on the Energy Code. Energy code local amendments are more difficult to process as they require a separate cost effectiveness study, and public review and approval by the CEC. Staff anticipates recommending additional local amendments to the Green Building code, Fire Code and possible other uniform State building codes. As these other local amendments do not require CEC approval, staff anticipates bringing forward a second building code ordinance for City Council approval in November 2019. The second ordinance will address the remainder of the uniform codes required by the state to adopt.

Alternative City Council actions include:

- Do not adopt Reach Codes for this code cycle.
- Providing staff and the EQC with a different direction. A different direction is unlikely to meet the timelines to implement Reach Codes by the start of the new state building code cycle. Reach Codes can be adopted at any time, but since the state typically increases requirements with each new code cycle, this may be inefficient in terms of city resources and clarity for permit applicants if new requirements start at a later date or mid-code cycle.

Impact on City Resource

Exploring adoption of Reach Codes is in the City Council 2019 work plan. It involves staff resources from the city attorney's office, sustainability division and community development department. This work plan item has been prioritized over other routine tasks and projects identified in the climate action plan and zero waste plan. As a result, it has delayed some projects and tasks, such as the climate action plan update, greenhouse gas inventory update, and electric vehicle charging infrastructure policy and program analysis.

The proposed Reach Codes will be administered by the building division. The simplicity of the electrically heated and all-electric requirement would not require additional resources and may save time in reviewing plans. On-site inspections would require less inspection time due to less or no natural gas infrastructure. In addition, the solar requirement for nonresidential buildings would not require additional resources to review and inspect.

Environmental Review

Pursuant to Title 14 of the California Administrative Code, Section 15061(b)(3) this ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") on the grounds that these standards are more stringent than the State energy standards, there are no reasonably foreseeable adverse impacts and there is no possibility that the activity in question may have a significant effect on the environment.

Public Notice

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

Attachments

- A. Ordinance No. 1057 amending Title 12 (Buildings and Construction) of the Menlo Park Municipal Code adopting the updated uniform building codes and adopting local amendments to the Energy Code
- B. Hyperlink – EQC staff report, June 19: <https://menlopark.org/DocumentCenter/View/21893/D2->

[20190619-reach-codes-EQC?bidId=](#)

- C. Hyperlink – Statewide Reach Code residential cost effectiveness study: menlopark.org/DocumentCenter/View/22644/H4--Att-C
- D. Hyperlink – Statewide Reach Code nonresidential cost effectiveness study: menlopark.org/DocumentCenter/View/22642/H4---Att-D
- E. Statewide cost effectiveness study supplemental memo
- F. Supplemental memo on induction ovens/stovetop
- G. Hyperlink – public comment received: menlopark.org/DocumentCenter/View/22643/H4---Att-G
- H. Hyperlink – climate action plan: menlopark.org/ArchiveCenter/ViewFile/Item/8360
- I. Hyperlink – 2017 UC study: https://www.ucop.edu/sustainability/_files/Carbon%20Neutral%20New%20Building%20Cost%20Study%20FinalReport.pdf
- J. Hyperlink – UC: <https://www.universityofcalifornia.edu/news/100-percent-clean-electricity>
- K. Hyperlink – July 16 Almanac article: <https://www.almanacnews.com/news/2019/07/16/menlo-park-back-to-back-meetings-for-city-council>
- L. Hyperlink – July 24 Almanac article: <https://www.almanacnews.com/news/2019/07/24/menlo-park-likely-to-ban-gas-heating-stoves-in-some-new-buildings>
- M. Hyperlink – project page: menlopark.org/reachcodes

Report prepared by:

Rebecca Lucky, Sustainability Manager

Chuck Andrews, Assistant Community Development Director

Cara Silver, Assistant City Attorney

ORDINANCE NO. 1057**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
AMENDING CHAPTER 12.04 [ADOPTION OF CODES] AND CHAPTER 12.16
[ENERGY CODE] OF TITLE 12 [BUILDINGS AND CONSTRUCTION] OF THE
MENLO PARK MUNICIPAL CODE TO ADOPT A LOCAL "REACH" CODE**

WHEREAS, the City of Menlo Park ("City") wishes to adopt a building code in accordance with law and to use the most updated regulations in the processing of development in the City;

WHEREAS, California Health and Safety Code section 17958 requires that cities adopt building regulations that are substantially the same as those adopted by the California Building Standards Commission and contained in the California Building Standards;

WHEREAS, the California Energy Code is a part of the California Building Standards which implements minimum energy efficiency standards in buildings through mandatory requirements, prescriptive standards, and performances standards;

WHEREAS, California Health and Safety Code Sections 17958.5, 17958.7 and 18941.5 provide that the City may make changes or modifications to the building standards contained in the California Building Standards based upon express findings that such changes or modifications are reasonably necessary because of local climatic, geological or topographical conditions;

WHEREAS, the City Council of the City of Menlo Park finds that each of the amendments, additions and deletions to the California Energy Code contained in this ordinance are reasonably necessary because of local climatic, geological or topographical conditions described in Section 1;

WHEREAS, Public Resources Code Section 25402.1(h)2 and Section 10-106. of the Building Energy Efficiency Standards (Standards) establish a process which allows local adoption of energy standards that are more stringent than the statewide Standards, provided that such local standards are cost effective and the California Energy Commission finds that the standards will require buildings to be designed to consume no more energy than permitted by the California Energy Code;

WHEREAS, the California Codes and Standards Reach Code Program, has determined specific modifications to the 2019 State Energy Code for each climate zone that are cost effective;

WHEREAS, that such modifications will result in designs that consume less energy than they would under the 2019 State Energy Code;

WHEREAS, the City of Menlo Park, through TRC Advanced Energy, has performed an additional cost effectiveness analyses as required by the California Energy Commission for the local amendments to the California Energy Code contained in this ordinance which memo is hereby incorporated by reference;

WHEREAS, based upon these analyses, the City Council of the City of Menlo Park finds that the local amendments to the California Energy Code contained in this ordinance are cost effective and will require buildings to be designed to consume no more energy than permitted by the California Energy Code;

WHEREAS, because of the City's unique local climatic, geologic and topographic conditions, the City desires to make amendments and additions to the code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MENLO PARK DOES ORDAIN AS FOLLOWS:

SECTION 1: FINDINGS AND DETERMINATIONS. The following local climatic, conditions justify modifications to the California Building Standards Code.

A. Climatic: The City is located in Climate Zone 3 as established in the 2019 California Energy Code. Climate Zone 3 incorporates mostly coastal communities from Marin County to southern Monterey County including San Francisco. The City experiences precipitation ranging from 13 to 20 inches per year with an average of approximately 15 inches per year. Ninety-five percent of precipitation falls during the months of November through April, leaving a dry period of approximately six months each year. Relative humidity remains moderate most of the time. Temperatures in the summer average around 80 degrees Fahrenheit and in the winter in the mid 50 degrees Fahrenheit. Prevailing winds in the area come from the west with velocities generally in the 12 miles per hour range, gusting from 25 to 35 miles per hour. These climatic conditions along with the greenhouse emissions generated from structures in both the residential and nonresidential sectors requires exceeding the energy standards for building construction established in the 2019 California Buildings Standards Code. The City Council also adopted a Climate Action Plan that has a goal of reducing greenhouse gas emissions 27% below 2005 levels by 2020. In order to achieve and maintain this goal, the City needs to adopt policies and regulations that reduce the use of fossil fuels that contribute to climate change, such as natural gas in buildings, in new development. Human activities, such as burning natural gas to heat buildings, releases greenhouse gases into the atmosphere and causes an overall increase in global average temperature. This causes sea levels to rise, affecting the City's shoreline and infrastructure.

Many new buildings in Menlo Park will be built near the coastline in an area known as the Bayfront Area that is situated on marshlands and former salt ponds. San Francisquito Creek also runs through the City, which creates an increasing potential flooding risk with climate change as a result of human generated greenhouse gas emissions. Menlo Park is vulnerable to sea level rise where new development is proposed in this code cycle. New buildings that are directly vulnerable to sea level rise should avoid generating additional greenhouse gas emissions. The proposed Reach Code would ensure that new buildings use cleaner sources of energy that are greenhouse gas free.

B. Geologic: The City of Menlo Park is subject to earthquake hazard caused by its proximity to San Andreas fault. This fault runs from Hollister, through the Santa Cruz Mountains, epicenter of the 1989 Loma Prieta earthquake, then on up the San Francisco Peninsula, then offshore at Daly City near Mussel Rock. This is the approximate location of the epicenter of the 1906 San Francisco earthquake. The other fault is Hayward Fault. This fault is about 74 mi long, situated mainly along the western base of the hills on the east side of San Francisco Bay. Both of these faults are considered major Northern California earthquake faults which may experience rupture at any time. Thus, because the City is within a seismic area

which includes these earthquake faults, the modifications and changes cited herein are designed to better limit property damage as a result of seismic activity and to establish criteria for repair of damaged properties following a local emergency.

C. Topographic: The City of Menlo Park is contiguous with the San Francisco Bay, resulting in a natural receptor for storm and waste water run-off. Also the City is located in an area that is relatively high liquefaction potential given its proximity to the Bay. The surface condition consists mostly of stiff to dense sandy clay, which is highly plastic and expansive in nature. The aforementioned conditions within the City create hazardous conditions for which departure from California Building Standards Code is warranted

SECTION 2: AMENDMENT OF CODE. Section 12.04.010 of Chapter 12.04 [Adoption of Codes] of Title 12 [Buildings and Construction] is hereby repealed and a new Section 12.04.010 is hereby added to read as follows:

12.04.010 Municipal building code.

The following codes are hereby adopted and by reference are incorporated herein as if set forth in full:

- (1) The 2019 California Administrative Code, published by the International Code Council, as amended in Part 1 of the California Building Standards Code, California Code of Regulations Title 24;
- (2) The 2019 California Building Code based on the International Building Code, 2018 Edition, published by the International Code Council, together with those omissions, amendments, exceptions and additions thereto as amended in Part 2 of the California Building Standards Code, California Code of Regulations Title 24;
- (3) The 2019 California Residential Code based on the International Residential Code, 2018 Edition, published by the International Code Council, together with those omissions, amendments, exceptions and additions thereto as amended in Part 2.5 of the California Building Standards Code, California Code of Regulations Title 24;
- (4) The 2019 California Electrical Code the National Electrical Code, 2017 Edition, published by the National Fire Protection Association, together with those omissions, amendments, exceptions and additions thereto as amended in Part 3 of the California Building Standards Code, California Code of Regulations Title 24;
- (5) The 2019 California Mechanical Code the Uniform Mechanical Code, 2018 Edition, published by the International Association of Plumbing and Mechanical Officials, together with those omissions, amendments, exceptions and additions thereto as amended in Part 4 of the California Building Standards Code, California Code of Regulations Title 24;
- (6) The 2019 California Plumbing code the Uniform Plumbing Code, 2018 Edition, including the Installation Standards thereto, published by the International Association of Plumbing and Mechanical Officials, together with those omissions, amendments, exceptions and additions thereto as amended in Part 5 of the California Building Standards Code, California Code of Regulations Title 24;

- (7) The 2019 California Energy Code, published by the International Code Council, as amended in Part 6 of the California Building Standards Code, California Code of Regulations Title 24;
- (8) The 2019 California Historical Building Code, published by the International Code Council, as amended in Part 8 of the California Building Standards Code, California Code of Regulations Title 24;
- (9) The 2019 California Existing Building Code based on the 2018 International Existing Building Code Edition, published by the International Code Council, together with those omissions, amendments, exceptions and additions thereto as amended in Part 10 of the California Building Standards Code, California Code of Regulations Title 24 ;
- (10) The 2019 California Green Building Standards Code, published by the International Code Council, as amended in Part 11 of the California Building Standards Code, California Code of Regulations Title 24; and
- (11) The 2019 California Referenced Standards Code, published by the International Code Council, as amended in Part 12 of the California Building Standards Code, California Code of Regulations Title 24.

A copy of each code is on file in the office of the city clerk. The provisions of this title, including said codes and amendments thereto, shall be known as the building code of the city.

SECTION 3: AMENDMENT OF CODE. Chapter 12.16 [Energy Code] of Title 12 [Buildings and Construction] is hereby repealed and a new Chapter 12.16 is hereby added to read as follows:

SECTION 100.0 – Scope

(e) Sections applicable to particular buildings. TABLE 100.0-A and this subsection list the provisions of Part 6 that are applicable to different types of buildings covered by Section 100.0(a).

1. All buildings. Sections 100.0 through 110.12 apply to all buildings.
EXCEPTION to Section 100.0(e) 1: Spaces or requirements not listed in TABLE 100.0-A.
2. Newly constructed buildings.
 - A. All newly constructed buildings. Sections 110.0 through 110.12 apply to all newly constructed buildings within the scope of Section 100.0(a). In addition, newly constructed buildings shall meet the requirements of Subsections B, C, D or E, as applicable; and shall be an All-Electric Building as defined in Section 100.1(b).
Exception 1: Non-Residential Buildings containing a Scientific Laboratory Building, such area may contain a non-electric Space Conditioning System.
To take advantage of this exception applicant shall provide third party verification that All-Electric space heating requirement is not cost effective and feasible.
 - Exception 2: Non-Residential Buildings containing for-profit restaurants open to the public may contain non-electric Cooking Appliances.
 - Exception 3: All Residential buildings may contain non-electric Cooking

Appliances, Fireplaces and Clothes Dryers.

Exception 4: Exemption for public agency owned and operated emergency centers. To take advantage of this exception applicant shall provide third party verification that All-Electric space heating requirement is not cost effective and feasible.

Note: In such exception situations, The Building Official shall have the authority to approve alternative materials, design and methods of construction or equipment per CBC 104.

Section 100.1(b) is modified by adding the following definitions:

ALL ELECTRIC BUILDING: is a building that has no natural gas or propane plumbing installed within the building, and that uses electricity as the source of energy for its space heating, water heating, cooking appliances, and clothes drying appliances. All Electric Buildings may include thermal solar thermal pool heating.

Scientific Laboratory Building: is a building or area where research, experiments, and measurement in medical, and life sciences are performed and/or stored requiring examination of fine details. The building may include workbenches, countertops, scientific instruments, and supporting offices.

Section 100.1 is modified as follows:

SHADING – is the protection from heat gains because of direct solar radiation by permanently attached exterior devices of building elements, interior shading devices, glazing material, adherent materials, including items located outside the building footprint such as Heritage trees or high rise buildings that may affect shading.

Section 110.2 is modified as follows:

SECTION 110.2 – MANDATORY REQUIREMENTS FOR SPACE-CONDITIONING EQUIPMENT

Certification by Manufacturers. Any space-conditioning equipment listed in this section, meeting the requirements of section 100.0 (e)2A, may be installed only if the manufacturer has certified to the Commission that the equipment complies with all the applicable requirements of this section.

Section 110.3 is modified as follows:

SECTION 110.3 – MANDATORY REQUIREMENTS FOR SERVICE WATER-HEATING SYSTEMS AND EQUIPMENT

(a) Certification by manufacturers. Any service water-heating system or equipment, meeting the requirements of section 100.0 (e)2A, may be installed only if the manufacturer has certified that the system or equipment complies with all of the requirements of this subsection for that system or equipment.

Section 110.4 is modified as follows:

SECTION 110.4 – MANDATORY REQUIREMENTS FOR POOL AND SPA SYSTEMS AND EQUIPMENT

(a) Certification by Manufacturers. Any pool or spa heating system or equipment, meeting the requirements of section 100.0 (e)2A, may be installed only if the manufacturer has certified that

the system or equipment has all of the following:

Section 110.5 is modified as follows:

SECTION 110.5 – NATURAL GAS CENTRAL FURNACES, COOKING EQUIPMENT, POOL AND SPA HEATERS, AND FIREPLACES: PILOT LIGHTS PROHIBITED

Any natural gas system or equipment, meeting the requirements of Section 100.0 (e)2A, listed below may be installed only if it does not have a continuously burning pilot light:

Section 110.10 is modified as follows:

SECTION 110.10 – MANDATORY REQUIREMENTS FOR SOLAR READY BUILDINGS AND SOLAR PANEL SYSTEM REQUIREMENTS FOR NON-RESIDENTIAL NEW BUILDINGS

(a) Covered Occupancies.

1. Single Family Residences. Single family residences located in subdivisions with ten or more single family residences and where the application for a tentative subdivision map for the residences has been deemed complete approved by the enforcement agency, which do not have a photovoltaic system installed, shall comply with the requirements of Section 110.10(b) through 110.10(e).
2. Low-rise Multifamily Buildings. Low-rise multi-family buildings that do not have a photovoltaic system installed shall comply with the requirements of Section 110.10(b) through 110.10(d).
3. Hotel/Motel Occupancies and High-rise Multifamily Buildings. Hotel/motel occupancies and high-rise multifamily buildings with ten habitable stories or fewer shall comply with the requirements of Section 110.10(b) through 110.10(d)- and Table 2.
4. Nonresidential Buildings. Nonresidential buildings with three habitable stories or fewer, other than healthcare facilities, shall comply with the requirements of Section 110.10(b) through 110.10(d)- and Table 2.

Table 2: Solar panel requirements for all new nonresidential and high rise residential buildings

Square footage of building	Size of panel
Less than 10,000 sq. ft.	Minimum of 3-kilowatt PV systems
Greater than or equal to 10,000 sq. ft.	Minimum of 5-kilowatt PV systems

EXCEPTION: As an alternative to a solar PV system, the building type may provide a solar hot water system (solar thermal) with a minimum collector area of 40 square feet, additional to any other solar thermal equipment otherwise required for compliance with Part 6.

(b) Solar Zone.

1. Minimum Solar Zone Area. The solar zone shall have a minimum total area as described below. The solar zone shall comply with access, pathway, smoke ventilation, and spacing requirements as specified in Title 24, Part 9 or other Parts of Title 24 or in any requirements adopted by a local jurisdiction. The solar zone total area shall be comprised of areas that have no dimension less than five feet and are no less than 80 square feet each for buildings with roof areas less than or equal to 10,000 square feet or no less than 160 square feet each for buildings with roof areas greater than 10,000 square feet.

A. Single Family Residences. The solar zone shall be located on the roof or

overhang of the building and have a total area no less than 250 square feet.

EXCEPTION 1 to Section 110.10(b)1A: Single family residences with a permanently installed domestic solar water-heating system meeting the installation criteria specified in the Reference Residential Appendix RA4 and with a minimum solar savings fraction of 0.50.

EXCEPTION 2 to Section 110.10(b)1A: Single family residences with three habitable stories or more and with a total floor area less than or equal to 2000 square feet and having a solar zone total area no less than 150 square feet.

EXCEPTION 3 to Section 110.10(b)1A: Single family residences located in the Wildland-Urban Interface Fire Area as defined in Title 24, Part 2 and having a whole house fan and having a solar zone total area no less than 150 square feet.

EXCEPTION 4 to Section 110.10(b)1A: Buildings with a designated solar zone area that is no less than 50 percent of the potential solar zone area. The potential solar zone area is the total area of any low-sloped roofs where the annual solar access is 70 percent or greater and any steep-sloped roofs oriented between 90 degrees and 300 degrees of true north where the annual solar access is 70 percent or greater. Solar access is the ratio of solar insolation including shade to the solar insolation without shade. Shading from obstructions located on the roof or any other part of the building shall not be included in the determination of annual solar access.

EXCEPTION 5 to Section 110.10(b)1A: Single family residences having a solar zone total area no less than 150 square feet and where all thermostats are demand responsive controls and comply with Section 110.12(a), and are capable of receiving and responding to Demand Response Signals prior to granting of an occupancy permit by the enforcing agency.

EXCEPTION 6 to Section 110.10(b)1A: Single family residences meeting the following conditions:

- A. All thermostats are demand responsive controls that comply with Section 110.12(a), and are capable of receiving and responding to Demand Response Signals prior to granting of an occupancy permit by the enforcing agency.
- B. Comply with one of the following measures:
 - i. Install a dishwasher that meets or exceeds the ENERGY STAR Program requirements with a refrigerator that meets or exceeds the ENERGY STAR Program requirements, a whole house fan driven by an electronically commutated motor, or an SAE J1772 Level 2 Electric Vehicle Supply Equipment (EVSE or EV Charger) with a minimum of 40 amperes; or
 - ii. Install a home automation system capable of, at a minimum, controlling the appliances and lighting of the dwelling and responding to demand response signals; or
 - iii. Install alternative plumbing piping to permit the discharge from the clothes washer and all showers and bathtubs to be used for an irrigation system in compliance with the California Plumbing Code

and any applicable local ordinances; or

iv. Install a rainwater catchment system designed to comply with the California Plumbing Code and any applicable local ordinances, and that uses rainwater flowing from at least 65 percent of the available roof area.

B. Low-rise and High-rise Multifamily Buildings, Hotel/Motel Occupancies, and Nonresidential Buildings. The solar zone shall be located on the roof or overhang of the building or on the roof or overhang of another structure located within 250 feet of the building or on covered parking installed with the building project, and shall have a total area no less than 15 percent of the total roof area of the building excluding any skylight area. The solar zone requirement is applicable to the entire building, including mixed occupancy.

EXCEPTION 1 to Section 110.10(b)1B: High-rise Multifamily Buildings, Hotel/Motel Occupancies, and Nonresidential Buildings with a permanently installed solar electric system having a nameplate DC power rating, measured under Standard Test Conditions, of no less than one watt per square foot of roof area.

EXCEPTION 2 to Section 110.10(b)1B: High-rise multifamily buildings, hotel/motel occupancies with a permanently installed domestic solar water-heating system complying with Section 150.1(c)8Biii- and an additional collector area of 40 square feet.

EXCEPTION 3 to Section 110.10(b)1B: Buildings with a designated solar zone area that is no less than 50 percent of the potential solar zone area. The potential solar zone area is the total area of any low-sloped roofs where the annual solar access is 70 percent or greater and any steep-sloped roofs oriented between 90 degrees and 300 degrees of true north where the annual solar access is 70 percent or greater. Solar access is the ratio of solar insolation including shade to the solar insolation without shade. Shading from obstructions located on the roof or any other part of the building shall not be included in the determination of annual solar access.

EXCEPTION 4 to Section 110.10(b)1B: Low-rise and high-rise multifamily buildings with all thermostats in each dwelling unit are demand response controls that comply with Section 110.12(a), and are capable of receiving and responding to Demand Response Signals prior to granting of an occupancy permit by the enforcing agency. In addition, either A or B below:

- A. In each dwelling unit, comply with one of the following measures:
- i. Install a dishwasher that meets or exceeds the ENERGY STAR Program requirements with either a refrigerator that meets or exceeds the ENERGY STAR Program requirements or a whole house fan driven by an electronically commutated motor; or
 - ii. Install a home automation system that complies with Section 110.12(a) and is capable of, at a minimum, controlling the appliances and lighting of the dwelling and responding to demand response signals; or
 - iii. Install alternative plumbing piping to permit the discharge from the

clothes washer and all showers and bathtubs to be used for an irrigation system in compliance with the California Plumbing Code and any applicable local ordinances; or
iv. Install a rainwater catchment system designed to comply with the California Plumbing Code and any applicable local ordinances, and that uses rainwater flowing from at least 65 percent of the available roof area.

B. Meet the Title 24, Part 11, Section A4.106.8.2 requirements for electric vehicle charging spaces.

EXCEPTION 5 to Section 110.10(b)1B: Buildings where the roof is designed and approved to be used for vehicular traffic or parking or for a heliport.

Exception 6 to section 110.10(b)1B: Performance equivalency approved by the building official.

2. Azimuth. All sections of the solar zone located on steep-sloped roofs shall be oriented between 90 degrees and 300 degrees of true north.

3. Shading.

A. No obstructions, including but not limited to, vents, chimneys, architectural features, and roof mounted equipment, shall be located in the solar zone.

B. Any obstruction, located on the roof or any other part of the building that projects above a solar zone shall be located at least twice the distance, measured in the horizontal plane, of the height difference between the highest point of the obstruction and the horizontal projection of the nearest point of the solar zone, measured in the vertical plane.

EXCEPTION to Section 110.10(b)3: Any roof obstruction, located on the roof or any other part of the building, that is oriented north of all points on the solar zone.

C. The solar zone needs to account for shading from obstructions that may impact the area required in 110.10(b)1B. When determined by the Building Official that conditions exist where excessive shading occurs and solar zones cannot be met, a performance equivalency approved by the Building Official may be used as an alternative.

4. Structural Design Loads on Construction Documents. For areas of the roof designated as solar zone, the structural design loads for roof dead load and roof live load shall be clearly indicated on the construction documents.

NOTE: Section 110.10(b)4 does not require the inclusion of any collateral loads for future solar energy systems.

(c) Interconnection Pathways.

1. The construction documents shall indicate a location reserved for inverters and metering equipment and a pathway reserved for routing of conduit from the solar zone to the point of interconnection with the electrical service.

2. For single family residences and central water-heating systems, the construction documents shall indicate a pathway for routing of plumbing from the solar zone to the water-heating system.

(d) Documentation. A copy of the construction documents or a comparable document indicating the information from Sections 110.10(b) through 110.10(c) shall be provided to the occupant.

(e) Main Electrical Service Panel.

1. The main electrical service panel shall have a minimum busbar rating of 200 amps.
2. The main electrical service panel shall have a reserved space to allow for the installation of a double pole circuit breaker for a future solar electric installation. The reserved space shall be permanently marked as "For Future Solar Electric".

SECTION 5: EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Administrative Code, Section 15061(b)(3) that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") on the grounds that these standards are more stringent than the State energy standards, there are no reasonably foreseeable adverse impacts and there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 6: SEVERABILITY. 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 7: EFFECTIVE DATE. This Ordinance shall become effective following approval by the California Energy Commission, but in no event before January 1, 2020.

SECTION 8: POSTING. 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 this twenty-seventh day of August, 2018.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on this _____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Ray Mueller, Mayor

ATTEST:

Judi A. Herren, City Clerk



436 14th Street
Oakland, CA 94612

August 13, 2019

MEMORANDUM

To: Gabriel Taylor, Peter Strait (California Energy Commission)
From: Farhad Farahmand, Abhijeet Pande (TRC), Rafael Reyes (Peninsula Clean Energy)
Re: **Interpretation of Cost Effectiveness Analysis as it Relates to Menlo Park Reach Code Proposal**

As part of an amendment to the California Building Standards Code, the City of Menlo Park is seeking a requirement for all new construction buildings to be all-electric but allows for several exceptions. For residential buildings, the City is proposing to allow natural gas to be used for appliances that don't serve space-heating or water-heating functions, such as cooking and clothes drying. For nonresidential buildings, certain categories of buildings such as public safety buildings, designated emergency centers as well as commercial buildings containing scientific laboratories that require natural gas for operational and process reasons are proposed to be exempted. Buildings containing for-profit restaurants open to public are also proposed to be exempted.

This memo serves to clarify the cost-effectiveness justification of these proposals as required by California Code of Regulations (CCR), Title 24, Part 1, §10-106 and request the Energy Commission's preliminary approval of this justification. If approved, an updated version of this interpretation will be included with Menlo Park's application to the Energy Commission.

The statewide investor owned utility codes and standards program developed a new construction cost effectiveness analysis for all California climate zones which included all-electric measures as part of multiple packages. These analyses have been attached, and:

- ◆ Were performed for both residential and nonresidential buildings
 - ◆ The residential prototypes included 4 end-uses in analysis: space heating, water heating, cooking, and clothes drying. These assumed savings from avoided natural gas infrastructure to and within the residence.
 - ◆ The nonresidential prototypes included 2 end-uses in analysis: space heating and water heating.
- ◆ Found that it is cost-effective to construct all-electric buildings compared to the 2019 Standards ACM baseline, including all end-uses analyzed, partially due to upfront cost savings associated with foregoing a natural gas connection to the building.

Menlo Park's code proposal would allow the construction of all-electric buildings which has been shown to be cost-effective using the TDV cost-effectiveness metric.

The existing cost effectiveness studies completed are sufficient to support Menlo Park's proposal, considering further that:

- ◆ In residential buildings, a proposed building with electric space- or water-heating is already compared to a standard building with these electric end-uses. Thus, no cost effectiveness criteria is explicitly required for the electrification of these end-uses.
- ◆ In nonresidential buildings, the prototypes examined in the cost effectiveness analysis only included space heating and water heating electrification. Other end uses targeted in the Menlo Park ordinance are unregulated appliances such as cooking, clothes drying which are not explicitly modeled in Title 24 compliance calculations. Adding requirements for these end uses to be electric does not impact the TDV budget for the building or compliance with Title 24. These will however impact the overall first cost of the all-electric building as well as operational impacts. These impacts however are not likely to be significant compared with the overall cost savings of around \$25,000 for offices and retail and almost \$1M for hotel occupancies. Electric cooking and clothes drying first cost difference compared to natural gas versions are between \$800-\$2000 per appliance. Operational cost increases are around \$2,000 per appliance over the building's lifetime. Thus the added first and operation costs for electric appliances are unlikely to be greater than the significant cost savings resulting from eliminating natural gas infrastructure. We thus propose that existing cost-effectiveness studies should be sufficient to justify Menlo Park requirements.

Thank you for considering our findings and analysis. Please contact me if you have any questions or concerns.



MEMORANDUM

Date: 8/27/2019
To: Mayor and Members of the City Council
From: Joanna Chen, Sustainability Specialist
Re: All-electric commercial kitchen

On July 16, City Council directed staff to pursue an all-electric reach code option for nonresidential buildings with the exception of life science buildings. An all-electric building is defined as a building that has no natural gas or propane plumbing installed within the building. This means cooking appliances cannot have gas burners. Induction cooking is two to three times more efficient than gas cooktops, making it the most energy efficient cooking appliance as proven in the Range Top Technology Assessment Report. Induction cooktops cook food faster, lose less heat in the process, and enhance the indoor air quality. According to Lawrence Berkeley National Lab, induction technology produces 30 times less indoor air pollutants than natural gas cooktops.

Induction cooking technology was introduced in 1933 and is popular in Asia and Europe. Thus, this technology is more than 80 years and will continue to advance. Despite most assumptions, the recent demand of induction cooking appliances have driven prices down and the selection up. For instance, a Frigidaire 30 inch gas cooktop costs \$854.10 compared to a Frigidaire 30 inch induction cooktop for \$899.10. A GE 30 inch gas cooktop costs \$1,169.10 compared to a GE 30 inch induction cooktop for \$1,439.10.

David Kaneda from Integral Group, which is a deep green engineering and consulting firm, is working with several projects involving all-electric commercial kitchens. A handful of professional head chefs at Michelin Star rated restaurants, including French Laundry, have switched to induction. Curtis Stone, a Michelin star chef, advocates for induction cooktops due to their heat efficiency, cooking flexibility, and easy cleaning. According to the 2018 Consumer Reports, the top ten rated cooktops are all induction stoves. The 10th rated induction cooktop earned 97 out of 100 score, whereas the top rated gas cooktop earned an 89 rating.



Figure 1. Maison Troisgros, a three-star Michelin restaurant

David noted three high-tech companies are committed to build all electric induction kitchens. LinkedIn's Sunnyvale office is net zero energy (produces enough renewable energy offset its own energy consumption to reduce the use of nonrenewable energy, such as natural gas) and has induction wok burners in the kitchens. Sonoma Academy, a nonprofit, private high school in Santa Rosa, CA, also has an all-electric commercial kitchen.



Figure 2. Induction wok burner.

In conclusion, an all-electric nonresidential building reach code option is achievable. Induction cooking is the future and is safer to operate. Not only does an induction cooktop improve the indoor air quality, but it also automatically turns off when a pot is removed. The glass surface does not get hot and an induction cooktop cannot turn on without a pan. Induction technology have advances progressively since the 1900s, so much that the cooktop has Wi-Fi and Bluetooth capabilities.

References

Range Top Technology Assessment

Report: https://fishnick.com/equipment/techassessment/5_range_tops.pdf

Lawrence Berkeley National

Lab: <https://pdfs.semanticscholar.org/1570/efb2619c61da28cd547899059795d164605c.pdf>

Most about Curtis Stone's perspective on induction cooktops: <https://www.bosch-home.com/us/experience-bosch/heart-of-the-home/recipes/curtis-stone-recipes/why-i-love-the-bosch-induction-cooktops>

Consumer Reports: <https://www.consumerreports.org/cro/cooktops.htm>

LinkedIn's Net Zero Energy

remodel: <https://www.mercurynews.com/2016/11/29/linkedin-opens-building-company-says-is-net-zero-energy/>

Sonoma Academy: <https://www.wrnsstudio.com/sonoma-academy-janet-durgin-guild-commons-a-story-of-community-sustainability-and-place/>



STAFF REPORT

City Council
Meeting Date: 8/27/2019
Staff Report Number: 19-180-CC

Regular Business: **Authorize the issuance and sale of 2019 general obligation refunding bonds (2001 Election) for the purpose of refunding outstanding general obligation bonds, Series 2009A and 2009B, and approve related documents**

Recommendation

Adopt Resolution No. 6521 (i) approving the issuance of 2019 general obligation refunding bonds to refund two series of outstanding 2009 general obligation bonds, provided that the present value savings to be realized by the City as a result of the issuance of the 2019 general obligation refunding bonds is not less than three percent of the principal amount of the 2009 general obligation bonds and (ii) authorizing the preparation and execution by the City officers and staff identified in the Resolution of all documents required to complete the issuance of the 2019 general obligation refunding bonds, including the preliminary official statement.

Policy Issues

Issuance of the City of Menlo Park 2019 general obligation refunding bonds (2001 Election) (the “2019 general obligation refunding bonds”) will result in debt service savings and lower property tax payments in the City.

Background

At an election held November 6, 2001, the City submitted the following Measure T to the registered voters of the City, and at least two-thirds of those voting on the proposition were in favor:

“To renovate and expand the City’s parks and recreation facilities, shall the City of Menlo Park be authorized to issue \$38,000,000 in General Obligation Bonds phased over several years for the construction, acquisition, and improvement of such facilities and all costs incident thereto; provided that at the time any bond is issued, the highest tax rate required to service all bonds authorized by this measure and issued shall not be in excess of \$14 per \$100,000 in assessed valuation?”

Under the Measure T bonding authority, the City has issued the following bonds:

- 2002 Bonds; 2012 Bonds. The initial Measure T bonds were the \$13,245,000 general obligation bonds, Series 2002. In 2012, the City refunded the 2002 bonds for debt service savings with proceeds of the City’s \$9,830,000 refunding general obligation bonds.
- 2009 general obligation bonds. In 2009, the City issued two series of Measure T bonds (the “2009 general obligation bonds”):
 - (i) \$1,080,000 City of Menlo Park general obligation bonds Series 2009A
 - (ii) \$9,360,000 City of Menlo Park general obligation bonds Series 2009B (federally taxable build America bonds.)

The 2009 general obligation bonds were issued in two series so the City could participate in the build America bond program, under which the federal government subsidized debt service payments. Both the 2009A bonds, which were issued as tax-exempt bonds, and the 2009B bonds, which were issued as taxable build America bonds, can be refunded with a single series of tax-exempt refunding bonds.

The City has \$14,315,000 of remaining “new money” bonding capacity under Measure T. Refunding bonds do not count against the remaining bonding capacity.

Analysis

The 2009 general obligation bonds become eligible for optional redemption August 1, 2019, and, under current capital market conditions, the City can refinance the 2009 general obligation bonds and achieve annual debt service savings. The 2009 general obligation bonds can be refunded with one series of general obligation refunding bonds.

Competitive bond sale

In a competitive sale, the City works with its municipal adviser and bond/disclosure counsel to structure the bond issuance and then, on a specified “auction date,” solicits bids from underwriting firms to purchase its bonds. The underwriting firm (or syndicate) offering the lowest interest rate is awarded the bond sale.

In a negotiated sale, an underwriting firm is selected to assist the City in structuring the financing, with the sale price (interest rate) and sale date determined through negotiation with the selected underwriter.

Staff recommends that the 2019 general obligation-refunding bonds be sold in a competitive bond sale because of the high credit quality of the City’s general obligation bonds, the straightforward nature of general obligation bonds and the relatively non-volatile conditions in the municipal bond market.

Interest rates and debt service savings

The interest rates for the 2019 general obligation refunding bonds will be determined at the time of sale. The most recent refunding projection provided by the City’s municipal adviser estimates an all-in true interest cost (taking into account costs of issuance, underwriter’s discount and other costs) of 3.10 percent. In that scenario, annual debt service savings would average approximately \$124,848.18 and the net present value debt service savings would total approximately \$2,063,891.64, or 21.0 percent of the principal amount of the outstanding 2009 general obligation bonds.

Under the proposed authorization, and in accordance with the City’s debt management policy, the City would not proceed with the sale of the 2019 general obligation refunding bonds unless the net present value debt service savings from the refunding of the 2009 general obligation bonds are equal to at least 3 percent of the principal amount of the outstanding 2009 general obligation bonds.

Key documents

The proposed Resolution will establish the terms of the Bonds and appoint a paying agent.

In addition, the City will execute (i) irrevocable refunding instructions, Attachment D, to direct the 2009 paying agent to apply proceeds of the 2019 general obligation refunding bonds and available tax revenue to redeem the 2009 general obligation bonds and (ii) a costs of issuance custody agreement providing for the payment of costs of issuing the Bonds.

The City Council will approve and authorize distribution of a notice of sale, Attachment C, (that details for potential bidders the terms of the competitive sale) and a preliminary official statement, and authorize execution of a continuing disclosure certificate.

Preliminary official statement

The attached preliminary official statement, Attachment B, has been reviewed and approved for transmittal to the City Council by the City's financing team, including consultants and City staff. The distribution of the preliminary official statement and the final official statement by the City is subject to the federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the preliminary official statement to include all facts that would be material to an investor in the 2019 general obligation refunding bonds. Material information exists where there is a substantial likelihood that the information would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell securities. If the City Council concludes that the preliminary official statement includes all facts that would be material to an investor in the 2019 general obligation-refunding bonds, it must adopt a resolution that authorizes Staff to execute a certificate to the effect that the preliminary official statement has been "deemed final."

The official statement contains information concerning the City and the 2019 general obligation refunding bonds, including estimated sources and uses of funds, the purposes for which the 2019 general obligation refunding bonds are being issued, the terms of the 2019 general obligation refunding bonds (sources of security, interest rates, redemption terms, etc.) and City financial information. The official statement will be used by underwriting firms to prepare their bids and to provide information about the 2019 general obligation refunding bonds to prospective and actual investors.

The Securities and Exchange Commission (SEC), the agency with regulatory authority over compliance with the federal securities laws, has indicated that if a member of a legislative body, like the City Council, has knowledge of any facts or circumstances that an investor would want to know before investing in securities, like the 2019 general obligation refunding bonds, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the preliminary official statement. The steps that a member of the City Council could take to fulfill this obligation include becoming familiar with the preliminary official statement and questioning staff and other members of the financing team about the disclosure of such facts.

Continuing disclosure certificate

SEC Rule 15c2-12 requires the underwriter of an issue of municipal securities to obtain a commitment by the issuer of the securities to provide ongoing disclosure. The continuing disclosure certificate under Rule 15c2-12 requires the City, as the issuer of the 2019 general obligation refunding bonds, to provide two types of ongoing disclosure – an annual report each year, and timely notices of certain types of events that are likely to be material to investors, if and when any occur. The annual report is required to contain annual financial information and operating data for the City, similar to the type of information contained in the official statement. The annual report is also required to contain the City's most recent financial statements.

Impact on City Resources

The 2019 general obligation-refunding bonds are not payable from the City's general fund but, rather, from a supplemental (or "override") property tax levy on secured and unsecured property in the City. The proposed refunding will result in lower debt service costs, which will be passed along to the property owners through a decrease in the override tax levy.

The costs of the financing consultants, including the City's municipal adviser (public financial management) and bond/disclosure counsel (Jones Hall) will be paid from bond proceeds.

Environmental Review

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

Public Notice

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

Attachments

- A. Hyperlink – Resolution No. 6521: menlopark.org/DocumentCenter/View/22624/H5-Att-A
- B. Hyperlink – Preliminary official statement dated August 15:
menlopark.org/DocumentCenter/View/22625/H5-Att-B
- C. Hyperlink – Draft notice of sale: menlopark.org/DocumentCenter/View/22626/H5-Att-C
- D. Hyperlink – Draft irrevocable refunding instructions:
menlopark.org/DocumentCenter/View/22627/H5-Att-D

Report prepared by:

Chris Lynch, Jones Hall

Kristen Middleton, Management Analyst II

Dan Jacobson, Finance and Budget Manager

Approved by:

Lenka Diaz, Administrative Services Director



STAFF REPORT

City Council Meeting Date: 8/27/2019
Staff Report Number: 19-170-CC

Informational Item: City Council agenda topics: September to November 2019

Recommendation

The purpose of this informational item is to provide the City Council and members of the public access to the anticipated agenda items that will be presented to the City Council. The mayor and city manager set the City Council agenda so there is no action required of the City Council as a result of this informational item.

Policy Issues

In accordance with the City Council procedures manual, the mayor and city manager set the agenda for City Council meetings.

Analysis

In an effort to provide greater access to the City Council's future agenda items, staff has compiled a listing of anticipated agenda items, Attachment A, through November 5. The topics are arranged by department to help identify the work group most impacted by the agenda item.

Specific dates are not provided in the attachment due to a number of factors that influence the City Council agenda preparation process. In their agenda management, the mayor and city manager strive to compile an agenda that is most responsive to the City Council's adopted priorities and work plan while also balancing the business needs of the organization. Certain agenda items, such as appeals or State mandated reporting, must be scheduled by a certain date to ensure compliance. In addition, the meeting agendas are managed to allow the greatest opportunity for public input while also allowing the meeting to conclude around 11 p.m. Every effort is made to avoid scheduling two matters that may be contentious to allow the City Council sufficient time to fully discuss the matter before the City Council.

Public Notice

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

Attachments

A. City Council agenda topics: September to November 2019

Report prepared by:
Judi A. Herren, City Clerk

Tentative City Council Agenda

#	Title	Department	Item type
1	Q4 preliminary close and investments	ASD	Consent
2	Approve the Finance and Audit Committee 2019-20 work plan	ASD	Consent
3	Amend the 2019-20 adopted budget	ASD	Regular
4	Receive and file the Q1 investments and operations reports	ASD	Consent
5	Management benefits summary update	ASD	Regular
6	Approve the 2016-2018 Housing Commission 2-year work plan amendments (19-164)	CDD	Consent
7	Below Market Rate Fund - MidPen Housing Loan Recommendation	CDD	Consent
8	Short Term Rental Regulation - Community Outreach Plan and Update	CDD	Consent
9	Housing Commission report (last report April and work plan amendment in Sept.)	CDD	Committee Report
10	2019 Code Adoption	CDD	Regular
11	Annual records destruction	CMO	Consent
12	Quarterly update: 2019-20 City Council priorities and work plan	CMO	Consent
13	Introduce local minimum wage ordinance	CMO	Regular
14	Update City Council policy #19-004, updating BHNLAC	CMO	Regular
15	City Council agenda topics: September to November 2019	CMO	Informational
16	Informational item: Draft communication plan	CMO	Informational
17	Regional projects and their traffic impact + the ability of the Town of Atherton to have input into the approval process	CMO	Joint session with Atherton City Council
18	Public safety - collaboration on policing	CMO	Joint session with Atherton City Council
19	Regional preparedness efforts (fires, earthquakes, etc.)	CMO	Joint session with Atherton City Council
20	Rail collaboration (Menlo Park/Atherton)	CMO	Joint session with Atherton City Council
21	Planning Commission interviews (tentative)	CMO	Interviews
22	Communication plan presentation	CMO	Presentation
23	EQC update	CMO	Committee Report
24	Minutes: 8/20 and 8/27	CMO	Consent
25	Second reading for reach codes	CMO	Consent
26	Adopt City Council Procedure No. XXX: City Council powers and responsibilities; interactions with City staff	CMO	Regular
27	City Council review of Planning Commission decisions	CMO	Regular

#	Title	Department	Item type
28	City Council agenda topics: October to December 2019	CMO	Informational
29	Sister City Committee update	CMO	Committee Report
30	Consider applicants and make appointment to fill vacancies on the Park and Recreation Committee and Planning Commission	CMO	Committee Report
31	Minutes: 9/10	CMO	Consent
32	Second reading and adoption of local minimum wage ordinance	CMO	Consent
33	Add public EV charging fee and zero waste program fee to master fee schedule	CMO	Regular
34	2020 redistricting (advisory or independent)	CMO	Regular
35	Update on climate action plan and zero waste plan progress	CMO	Regular
36	Report from City Council subcommittees on planning and zoning	CMO	Regular
37	City Council agenda topics: October to December 2019	CMO	Informational
38	BAWSCA report to Council form KKeith	CMO	Presentation
39	Minutes: 9/24	CMO	Consent
40	Adopt City Council Procedure Nos. XXX and XXX: City Council Communications; Meetings	CMO	Regular
41	Adopt Updates to the Heritage Tree Ordinance	CMO	Regular
42	City Council agenda topics: November 2019 to January 2020	CMO	Informational
43	Minutes: 10/15	CMO	Consent
44	City Council agenda topics: November 2019 to January 2020	CMO	Informational
45	Parks and Recreation Commission update	CSD	Committee Report
46	Draft Park Recreation facility master plan	CSD	Informational
47	Receive, file and provide direction on Park Recreation facility master plan	CSD	Regular
48	Library Commission update	LIB	Committee Report
49	Belle Haven branch library project - site analysis	LIB	Study Session
50	Ester Bugna Memorial presentation	PW	Presentation
51	Authorize the city manager to enter into an agreement with _____ for park ranger services	PW	Consent
52	Reject all bids for the reconstruction of Nealon Park Tennis courts project	PW	Consent
53	Review draft transportation impact fee	PW	Regular
54	Complete Streets Commission update (last update May)	PW	Committee Report
55	First reading of transportation impact fee ordinance	PW	Regular
56	Second reading and adoption of transportation impact fee ordinance	PW	Consent
57	Annexation procedure/policies/applications/West Menlo Triangle/Menlo Oaks annexation	PW, CMO	Study Session
58	Presentation: 2018-19 community development department and public works department organizational reviews prepared by Matrix Consulting	PW, CMO, CDD	Presentation