



**SPECIAL MEETING AGENDA – AMENDED**

**Date:** 11/12/2019  
**Time:** 5:30 p.m.  
**City Council Chambers**  
**701 Laurel St., Menlo Park, CA 94025**

This amended agenda includes a supplement staff report to item E1.

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.

**5:30 p.m. Special Meeting**

**A. Call To Order**

**B. Roll Call**

**C. Pledge of Allegiance**

**D. Consent Calendar**

- D1. Authorize the city manager to enter into a professional services agreement with E-Ikon, LLC for information technology consultation services for six months, with an annual option to renew up to two years, not to exceed the budgeted amount each fiscal year ([Staff Report #19-246-CC](#))
- D2. Direct staff to prepare an education series on the development and environmental review processes ([Staff Report #19-249-CC](#))
- D3. Adopt City Council Procedure #CC-19-010 – “City Council powers and responsibilities” ([Staff Report #19-245-CC](#))
- D4. Adopt Resolution No. 6529 authorizing the city manager to sign a contract amendment with the State of California Department of Education to reimburse the City up to \$1,052,860 for child care services at the Belle Haven Child Development center for fiscal year 2019-20 ([Staff Report #19-248-CC](#))

**E. Regular Business**

- E1. Adopt urgency Ordinance No. 1063 implementing tenant eviction protections and limiting large rental rate increases effective immediately to avoid circumvention of AB 1482 ([Staff Report #19-251-CC](#)) ([Supplemental Staff Report #19-258-CC](#))
- E2. Award a contract to LDV Specialty Vehicles in the amount of \$478,776.50 for the purchase of one mobile command vehicle ([Staff Report #19-228-CC](#))

**F. Informational Items**

F1. Update on small business roundtable and economic development consultant services  
([Staff Report #19-237-CC](#))

F2. Downtown street café program update ([Staff Report #19-224-CC](#))

**G. City Manager's Report**

**H. City Councilmember Reports**

**I. 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](http://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](http://menlopark.org/notifyme). Agendas and staff reports may also be obtained by contacting City Clerk at 650-330-6620. (Posted: 11/12/2019)



## STAFF REPORT

**City Council**  
**Meeting Date:** 11/12/2019  
**Staff Report Number:** 19-246-CC

**Consent Calendar:** **Authorize the city manager to enter into a professional services agreement with E-Ikon, LLC for information technology consultation services for six months, with an annual option to renew up to two years, not to exceed the budgeted amount each fiscal year**

### Recommendation

Staff recommends that the City Council authorize the city manager to enter into a professional services agreement with E-Ikon, LLC for information technology consultation services for six-months (January – June 2020,) with an annual option to renew up to two years, not to exceed the budgeted amount each fiscal year.

### Policy Issues

This recommendation supports implementation of the information technology master plan (ITMP,) included in the City Council's current workplan.

### Background

On July 10, the City entered into professional services agreement #002718 with E-Ikon, LLC to provide information technology consultation services for a period of approximately six-months. This contract is expected to be fully expended by December 31.

E-Ikon was established in 2007, remaining a local, minority, woman-owned company. It provides an array of information technology services, including system and network design, technology implementation, strategic advice, identifying cost-efficiencies, and process development and streamlining.

### Analysis

Since July, E-Ikon, LLC has worked with our information technology team to improve network integrity, negotiate contracts, streamline contract services and advance ITMP projects. E-Ikon, LLC has demonstrated immense industry knowledge, quickly recognizing the City's information technology environment and recommending efficiencies to save personnel and financial resources.

Staff recommends that E-Ikon, LLC continue to support staff with highly complex technical expertise, project management, and streamlining and negotiating of information technology services. It is estimated the costs for this work during the period of January – June 2020 will be \$76,000. Some specific results that E-Ikon, LLC would deliver are included in Attachment A.

### **Impact on City Resources**

Consultant support for information technology is included in the adopted fiscal year 2019-20 budget. An internal service fund was created at the time of adoption of the ITMP to support plan activities. This fund would be drawn down to pay for information technology consultant services, and is included in the budget adoption process each fiscal year. Additionally, the savings E-Ikon, LLC has achieved through contract negotiations and alternative information technology solutions reduces the actual cost.

### **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. Proposal from E-Ikon, LLC

Report prepared by:  
Lenka Diaz, Administrative Services Director

# PROPOSAL FOR IT CONSULTING SERVICES

CITY OF MENLO PARK

## OVERVIEW

E-Ikon, LLC. is pleased to submit a proposal to provide Information Technology Consulting Services for City of Menlo Park IT Division. E-Ikon specializes in providing services in all aspects of government technology such as Cybersecurity, Infrastructure, Networking, Telecommunications, and Enterprise Software. E-Ikon serves its public agency clients typically in strategy, program, and project management. We are currently serving as a consultant to the City of Menlo Park, and working on its IT Master Plan initiatives, strategy, and operational projects.

Our work is centered on five main areas. They are as follows:

- **Cyber Security and Technical Infrastructure** – Recommend improvements in the areas of cybersecurity, datacenter, networking, software applications and databases, and peripherals that are a part of the City’s IT ecosystem.
- **IT Services and delivery** – Support IT Manager to improve service management methodology; and knowledge and skillsets of staff.
- **Custom Software and Application Development Services** –Develop custom software to meet the specific needs of the organization.
- **Advisory** – Advise the IT Division on policy and governance, process development and streamlining, and tools that support IT planning and investment decisions.
- **Contract management:** Support IT to manage its contract renewals, and negotiate new contracts and services with vendors on IT initiatives and projects.

## THE OPPORTUNITY

While working with the IT manager, in the last few months we have had the opportunity to assist in developing a roadmap in alignment with the City of Menlo Park’s IT Master Plan. These projects range from infrastructure upgrades and improvements such as the Council Audio/Visual systems, software upgrades to core financial systems, Land Management, Asset Management, Data and Content Management, continuous improvement to the cybersecurity posture of the City, along with achieving operational efficiencies and cost reductions. We have already worked on several of the projects that are marked as complete in **Attachment 1**. We are actively working on other projects that require project and program management for which we have the knowledge, experience, and expertise towards providing a successful implementation. Importantly, we have till now helped save the organization over \$50,000 by recommending new support and maintenance contracts; and re-negotiating the existing ones.

## OUR PROPOSAL

E-Ikon, LLC will provide consulting and project management services to IT Division for all the projects listed in **Attachment 1**. In addition, we will also support IT with the following services:

- Advise and guide the IT Manager on various technology initiatives and succession planning opportunities.

- Work closely with the IT manager to maintain a strong cybersecurity posture and managing IT initiatives in all areas (security, infrastructure, software, and web).
- Perform program and project management for infrastructure, network, security, and software.
- Work with the IT Manager to guide and develop the fiscal year operating budget.
- Prepare project reports, dashboards, and executive briefings' presentations.
- Through observations, identify organizational initiatives to improve customer service and service delivery effectiveness.

E-Ikon, LLC will also utilize our knowledge and expertise to provide meaningful and sustainable improvements that are compatible with the broader goals and objectives of the organization. Performance of this work will be driven by the following philosophy and approach:

1. Identify strategic, implementable, and sustainable improvement initiatives.
2. Find solutions to increase the effectiveness of Information Technology Services in a cost-effective manner.
3. Understand and value the past, but focus on the present and future needs.
4. Importance of aligning City Council priorities with fiscal realities.

## CONTRACT TERMS

We propose performing the work on a time and material basis. The terms of the contract will be a six (6) month contract starting from January 1, 2020, to June 30, 2020, with the option to renew annually for a total of three (3) year term.

## BILLING RATES

The rates displayed in the fee schedule below reflect E-Ikon's current fee structure. Hourly rates will be subject to change on July 1 of every fiscal year and will increase by 5% annually.

Following is the fee schedule for all the services offered by E-Ikon, LLC for the term starting January 1, 2020, to June 30, 2020.

ROLE	HOURLY RATE
IT Project and Program Management	\$ 128
IT Project Management-Enterprise Software	\$ 150
Software Application Development	\$ 150
After Hours Support	\$ 192

## CONCLUSION

E-Ikon, LLC is a minority, woman-owned company. It has served Information Technology needs to its clients since 2007.

Our expertise lies in thoroughly understanding the customer requirements and business objectives and providing strategic advice on using technology to achieve business goals in a cost-effective manner. We design IT systems and networks ensuring the right architecture, functionality, and operational efficiency. We plan and manage new technology implementations, and provide responsive and excellent customer service to our clients and partners,

We appreciate the opportunity to present a proposal for our services, and we look forward to collaborating with City of Menlo Park's IT team to achieve the goals and objectives set by the City Council.

Name: **Preeti B. Tikekar**

Title: President

Company: E-Ikon, LLC



**ATTACHMENT 1  
City of Menlo Park  
IT Project Roadmap  
Information Technology Master Plan**

**IT Master Plan**

Name	Status	How long will this take - Start	How long will this take - End	Departments	Priority
Activity No. 1: Network and System Infrastructure Enhancements (Winter 2017 to Winter 2020)	In Progress	2019-07-01	2022-06-30	Information Technology	High
Activity No. 2: Land Management System Replacement (Fall 2018 to Fall 2019)	In Progress	2019-07-01	2022-06-30	Community Development	High
Activity No. 3: GIS Enterprise Upgrade (Winter 2018 to Winter 2020)	In Progress	2019-07-01	2022-06-30	Community Development	High
Activity No. 4: Operations and Asset Management System Implementation (February 2019 to Winter 2020)	In Progress	2019-07-01	2022-06-30	Public Works	High
Activity No. 5: Electronic Document Management System Software Selection (Fall 2019 to Spring 2020)	Planned	2019-07-01	2022-06-30	City-wide	High

**Proposed Projects in Alignment of the IT Master Plan**

**2020 Q1 Jul-Sept**

Name	Status	How long will this take - Start	How long will this take - End	Departments	Priority
Data Center Upgrade	Planned	2020-07-01	2021-06-30	Information Technology	High
Disaster Recovery - Information Technology	Planned	2020-07-01	2021-06-30	Information Technology	High
2020 Vulnerability Assessment	Planned	2019-07-01	2019-09-30	Information Technology	High

**2020 Q4 Apr-June**

Name	Status	How long will this take - Start	How long will this take - End	Departments	Priority
Phase 3-Cyber Security Remediation based upon recommendations	Continuous	2020-04-01	2020-06-30	Information Technology	Low
Wireless Network Upgrade	Planned	2020-04-01	2020-06-30	Information Technology	Medium
Agency-wide Security Camera System Upgrade	Planned	2020-04-01	2020-06-30	Information Technology	Medium

**2020 Q3 Jan-Mar**

Name	Status	How long will this take - Start	How long will this take - End	Departments	Priority
Audio/Visual Upgrade for Council Chambers, Gymnastics, Conference Rooms	Planned	2020-01-03	2020-03-31	Information Technology	High
Phase 2-Cyber Security Remediation based upon recommendations	Continuous	2020-01-01	2020-03-31	Information Technology	High
Granicus Digital Upgrade	Planned	2020-01-01	2020-03-31	Information Technology	High
OHCC IT Specifications for complete overhaul	Planned	2020-01-01	2020-03-31	Information Technology	Medium
EOC Technology upgrade	Planned	2020-01-01	2020-03-31	Information Technology	High
PD Mobility Refresh	Planned	2020-01-01	2020-03-31	Information Technology	High
Cisco switch deployment	Planned	2020-01-01	2020-03-31	Information Technology	High

**ATTACHMENT 1  
City of Menlo Park  
IT Project Roadmap  
Information Technology Master Plan**

**2019 Q2 Oct-Dec**

Name	Status	How long will this take - Start	How long will this take - End	Departments	Priority
Accela Go Live on Azure	In Progress	2019-05-01	2019-10-15	Community Development	High
Cartegraph	In Progress	2019-08-01	2020-04-01	Public Works	High
Clean Up Disabled Account in Active Directory and Email	In Progress	2019-10-01	2019-12-31	Information Technology	High
PD Desktop Refresh	In Progress	2019-09-25	2019-12-31	Information Technology	High
Replace Aging Printer Fleet	In Progress	2019-10-08	2019-11-30	Information Technology	High
Reconfigure SSL VPN Access and enable 2FA	In Progress	2019-10-08	2019-11-30	Information Technology	High
Cisco Maintenance and Support Contract Renewal	In Progress	2019-10-01	2019-12-31	Information Technology	High
Replace Panic Buttons	Planned	2019-11-01	2019-11-30	Information Technology	High
Phase 1- Cyber Security Remediation based upon recommendations	Continuous	2019-10-22	2019-12-31	Information Technology	High

**2019 Q1 July-Sept**

Name	Status	How long will this take - Start	How long will this take - End	Departments	Priority
Internet Cut-Over from ISC to COMCAST	Done	2019-06-01	2019-07-13	Information Technology	High
SAN Cleanup Disk Space on HyperV   VSphere   Retire VSphere	In Progress	2019-06-01	2019-11-01	Information Technology	High
Cyber Security Vulnerability Testing and Reporting	Done	2019-09-21	2019-10-15	Information Technology	High
City-wide Firewall upgrade	Done	2019-09-02	2019-09-23	Information Technology	High
IT Mandatory - Server Memory Upgrades	Done	2019-06-21	2019-09-30	Information Technology	High
IT Innovation - Implement Password Management Solution	In Progress	2019-08-01	2019-09-30	Information Technology	High
Comcast SandHill Fiber installation	In Progress	2019-10-08	2019-12-31	Information Technology	Medium
Azure Government Cloud Connection	Done	2019-08-20	2019-08-31	Information Technology	Medium



## STAFF REPORT

### City Council

Meeting Date: 11/12/2019

Staff Report Number: 19-249-CC

Consent Calendar: **Direct staff to prepare an education series on the development and environmental review processes**

### Recommendation

The recommendation is that the City Council direct staff to prepare an education series on the development and environmental review processes.

### Policy Issues

The City Council establishes subcommittees to identify policy considerations and alternatives for full City Council discussion and determination. The subcommittee for planning and zoning in District 1 identified the need for community education on development processes to help residents participate in the complex development application and review process.

### Background

At the October 15 City Council meeting, the City Council subcommittees on planning and zoning reported on the issues explored in the subcommittee and the work completed. As part of their recommendation to the full City Council, the subcommittee for District 1 identified several options to move forward.

### Analysis

The District 1 subcommittee report October 15 included the recommendation for a community education series on development processes. Specifically, the subcommittee presented the following:

The subcommittee recommends that the City Council prioritize staff resources to develop an education series on the development process. The first session envisioned provides a basic overview of the City's development processes and procedures, the California Environmental Quality Act (CEQA), and other legal requirements that determine how a property owner can develop their property. The second session is intended to provide the public with a greater understanding of the community's opportunities to influence development activity. Included in the second session are an in-depth review of the environmental impact report (EIR) process and the linkages between project applications. Also included in the second session is an overview of the online tools available to members of the public.

If directed by the City Council to pursue the subcommittee's recommendation, staff will return in January 2020 with a full scope for review as part of the City Council's goal setting and prioritization process.

### **Impact on City Resources**

At this time, the resources to prepare the education series on development processes is unknown.

### **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**

None.

Report prepared by:  
Nick Pegueros, Assistant City Manager



## STAFF REPORT

### City Council

Meeting Date: 11/12/2019

Staff Report Number: 19-245-CC

Consent Calendar: Adopt City Council Procedure #CC-19-010 – “City Council powers and responsibilities”

### Recommendation

Staff recommends that the City Council adopt City Council Procedure #CC-19-010 – “City Council powers and responsibilities.”

### Policy Issues

The City Council adopts procedures governing their operations. The City Council retains full control over its procedures.

### Background

City Council Procedure #CC-19-010, Attachment A, was first heard at the October 1 City Council meeting where it was approved as amended and tracked in the redline version of Procedure #CC-19-010, Attachment B.

### Analysis

Following a presentation from staff, public comment, and discussion by the City Council, staff recorded the desired changes as tracked in Attachment B.

### Impact on City Resources

None.

### 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 Procedures #CC-19-010 – clean version
- B. City Council Procedures #CC-19-010 – redlined version

Report prepared by:  
Nick Pegueros, Assistant City Manager

# CITY COUNCIL POWERS AND RESPONSIBILITIES

City Council Procedure #CC-19-010

Effective November 12, 2019



## Purpose

The powers of the City Council to establish policy are quite broad. Essentially, the City Council may undertake any action related to city affairs other than those forbidden or preempted by state or federal law. Specifically, the City Council has the power, in the name of the city, to do and perform all acts and things appropriate to a municipal corporation and for the general welfare of its inhabitants which are not specifically forbidden by the Constitution and laws of the State of California.

It is important to note that the City Council acts as a body. No member has any extraordinary powers beyond those of other members. While the Mayor and Vice Mayor have some additional ceremonial and administrative responsibilities as described below, in the establishment execution of policies and procedures, all city councilmembers are equal.

It is also important to note that policy is established by at least a majority vote of the City Council. While individual city councilmembers may disagree with decisions of the majority, a decision of the majority does bind the City Council to a course of action. In turn, it is staff's responsibility to ensure the policy of the City Council is upheld. Actions of staff to pursue the policy direction established by a majority of the City Council do not reflect any bias against city councilmembers who held a minority opinion on an issue.

## Appointment of City Council Officers and City Council subcommittees

### Selection of Mayor and Vice Mayor

The city council shall meet in December of each year to choose one of its members as mayor and one as mayor pro tempore.<sup>1</sup> The City Council has determined that for the purpose of this policy, the "Mayor Pro Tempore" title shall be replaced with "Vice Mayor" beginning with the annual rotation in December 2019.

#### Mayor

The Mayor presides at all meetings of the City Council and performs such other duties consistent with the office as may be imposed by the City Council or by vote of the people. The Mayor does not possess any power of veto. As presiding officer of the City Council, the Mayor is to faithfully communicate the will of the City Council majority in matters of policy. The Mayor is also recognized as the official head of the city for all ceremonial purposes.

The Mayor, unless unavailable, shall sign all ordinances, and other documents that have been adopted by the City Council and require an official signature; except when the city manager has been authorized by City Council action to sign documents. In the event the Mayor is unavailable, the Vice Mayor's signature may be used.

The Mayor also consults and coordinates with the city manager and Vice Mayor in the development of agendas for meetings of the City Council. The mayor shall appoint members of the Planning Commission, with the approval of the City Council<sup>2</sup>, and the mayor has additional roles and responsibilities in the event of a declared disaster including serving as chairperson of the disaster council<sup>3</sup>.

<sup>1</sup> MPMC Section [2.04.120](#)

<sup>2</sup> MPMC Section [2.12.020](#)

<sup>3</sup> MPMC Section [2.44.040](#)

**CITY COUNCIL POWERS AND RESPONSIBILITIES**

City Council Policy #CC-19-010

Adopted November 12, 2019

Vice Mayor

The Vice Mayor shall perform the duties of the Mayor during the Mayor's absence, at the pleasure of the City Council.

**Appointment of City Council subcommittees**

City Council subcommittees, when used, are to help the City Council do its job. Subcommittees ordinarily will assist the City Council by preparing policy alternatives and implications for City Council deliberation. City Council subcommittees may not speak or act for the City Council. Subcommittees will be used sparingly and ordinarily in an ad hoc capacity. This policy applies to any group that is formed by City Council action, whether or not it is called a subcommittee. Unless otherwise stated, a subcommittee is deemed to be ad hoc and ceases to exist as soon as its task is complete. Standing subcommittees are City Council subcommittees with regular responsibilities as assigned by the City Council generally spanning more than a single year or project. Standing subcommittees are subject to the Open Meetings Act (Brown Act). Ad hoc subcommittees are not listed below considering their limited nature.

<b>Standing City Council subcommittees</b>
Community grant funding
Rail

**Appointment of City Councilmembers to outside boards and organizations**

Typically, appointments to outside boards and organizations are made at the beginning of a City Council term in December. The Mayor will ask city councilmembers which appointments they desire and will submit recommendations to the full City Council regarding the various outside appointments. Certain appointments are reserved for the incumbent Mayor and Vice Mayor as primary and alternate members, respectively. Alternates shall also be appointed to ensure participation in the decision making processes of outside boards and organizations. In the instance where more than one city councilmember wishes to be appointed to an outside board or organization, a vote of the City Council will be taken to confirm appointment of the primary and alternate appointees. Outside boards and organization appointments are as follows:

<b>Outside boards</b>	<b>notes</b>
Association of Bay Area Government (ABAG)	Incumbent Mayor and Vice Mayor
Bay Area Water Conservation Agency (BAWSCA)	4-year appointment
City/County Association of Governments (C/CAG)	
Emergency Services Council	
Peninsula Clean Energy Authority (PCE)	
San Francisquito Creek Joint Powers Authority	
South Bayside Waste Management Authority	
<b>Outside organizations</b>	<b>notes</b>
Airport Community Roundtable	
Caltrain Modernization Local Policy Maker Group	Same members as the Rail Subcommittee
County of Santa Clara Community Resources Group for Stanford University	Same members as subcommittees pertaining to Stanford University
Facebook Local Community Fund	
Grand Boulevard Initiative Taskforce	
League of California Cities (League/LCC), including LCC Peninsula Division	Incumbent Mayor and Vice Mayor
Menlo Park Chamber of Commerce	Incumbent Mayor and Vice Mayor
San Mateo County Council of Cities City Selection Committee	Incumbent Mayor and Vice Mayor

## CITY COUNCIL POWERS AND RESPONSIBILITIES

City Council Policy #CC-19-010

Adopted November 12, 2019

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As a City Council appointee to an outside board or organization, the appointee shall represent the policy set by the majority of the City Council at a public meeting. If the appointee is unclear as to the position of the City Council on a particular business item scheduled for vote at the outside board or organization, the appointee shall consult the full City Council under “City Councilmember reports” section of the public meeting agenda or, if sufficient time is not available, consult the city manager.

Appointees to an outside board or organization shall report to the City Council under “City Councilmember reports” following each meeting.

As a member of an outside board or organization, appointees must attend all regular scheduled meetings of the outside board or organization to ensure that Menlo Park’s has a voice on matters of significance to the community. If an appointee is not available, s/he shall coordinate with the alternate to ensure Menlo Park representation.

### Appointment of advisory bodies and advisory body liaisons

#### Advisory bodies

The City Council has formed several commissions, committees, and taskforces, collectively referred to as “advisory bodies”. The City Council shall adopt a City Council procedure to provide guidelines on the appointment, roles and responsibilities<sup>4</sup> of the various advisory bodies excluding the Planning Commission which is established by Municipal Code<sup>5</sup> and is vested with statutory duties.

2019 Commissions	2019 Committees/Taskforces <sup>6</sup>
Complete Streets Commission	Belle Haven Neighborhood Library Advisory Committee
Environmental Quality Commission	Finance and Audit Committee
Housing Commission	Sister City Committee
Library Commission	Transportation Master Plan Oversight and Outreach Committee
Parks & Recreation Commission	
Planning Commission	

#### Liaisons to City Council advisory bodies

City Councilmembers are assigned to serve in a liaison capacity with one or more City Council advisory bodies. The purpose of the liaison assignments is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the City Council's familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, city councilmembers may elect to attend advisory body meetings periodically to observe the activities of the advisory body or simply maintain communication with the advisory body chair on a regular basis.

##### Assignment of liaisons

Typically, advisory body liaison assignments are made at the beginning of a City Council term in December. The Mayor will ask city councilmembers which liaison assignments they desire and will submit recommendations to the full City Council regarding the assignments. In the instance where more than one city councilmembers wishes to be the appointed liaison to a City Council advisory body, a vote of the City Council will be taken to confirm assignments.

City Councilmembers should be sensitive to the fact that they are not participating members of the advisory body, but are there rather to create a linkage between the City Council and advisory body. In interacting with advisory bodies, city councilmembers are to reflect the views of the City Council as a body. Being an advisory body liaison bestows no special right with respect to advisory body business.

<sup>4</sup> MPMC Section [2.04.200](#)

<sup>5</sup> MPMC Section [2.12.040](#)

<sup>6</sup> 2019 Committees and taskforces all have City Councilmembers serving as voting members and no liaison is required.



## CITY COUNCIL POWERS AND RESPONSIBILITIES

City Council Policy #CC-19-010

Adopted November 12, 2019

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### **City Council relationship with advisory bodies**

The City Council has determined that city councilmembers should not lobby advisory body members for particular votes. However, city councilmembers may attend meetings as residents and request that advisory body members consider certain issues during their deliberations or in unusual instances as city councilmembers to reflect the views of the City Council as a body.

City Councilmembers choosing to attend advisory body meetings should be sensitive to the fact that they are not participating members of the body. City Councilmembers have the rights, and only the rights, of ordinary citizens with respect to advisory bodies – including the right to write to and speak to the advisory body during public comment periods.

### **Appointment of city attorney and city manager**

The City Council appoints two positions within the city organization: the city manager and city attorney. Both positions serve at the will of the City Council and have employment agreements that specify certain terms of employment including an annual evaluation by the City Council.

#### **Appointment of city attorney**

The city attorney is the legal adviser for the City Council, city manager and departments. The general legal responsibilities of the city attorney are to: 1) provide legal assistance necessary for formulation and implementation of legislative policies and projects; 2) represent the City's interest, as determined by the City Council, in litigation, administrative hearings, negotiations and similar proceedings; 3) prepare ordinances, resolutions, contracts and other legal documents to best reflect and implement the purposes for which they are prepared; and 4) keep the City Council and staff apprised of court rulings and legislation affecting the legal interest of the City. It is important to note that the city attorney does not represent individual city councilmembers, but the City Council as a whole.

#### **Appointment of city manager**

The city manager shall be appointed by the City Council solely on the basis of his or her executive and administrative qualifications and ability. He or she shall hold office at and during the pleasure of the City Council<sup>7</sup>. The city manager shall receive such compensation as the City Council from time to time determines and fixes by resolution and such compensation shall be a proper charge against such funds of the city that the City Council designates<sup>8</sup>.

The city manager shall be the administrative head of the city government under the direction and control of the city council, except as otherwise provided in the Municipal Code. He or she shall be responsible for the efficient administration of all the affairs of the city, which are under his or her control. In addition to his or her general powers as administrative head, and not as a limitation thereon, it shall be his or her duty and he or she shall have the power<sup>9</sup>:

- (1) Enforcement of laws. To see that all laws and ordinances of the city are duly enforced, and that all franchises, permits and privileges granted by the city are faithfully observed;
- (2) To direct, etc., officers and employees. To control, order and give directions to all heads of departments, subordinate officers, and employees of the city, except the city attorney; and to transfer employees from one (1) department to another, and to consolidate or combine offices, positions, departments or units under his or her direction;

<sup>7</sup> MPMC Section [2.08.010](#)

<sup>8</sup> MPMC Section [2.08.060](#)

<sup>9</sup> MPMC Section [2.08.080](#)

## CITY COUNCIL POWERS AND RESPONSIBILITIES

City Council Policy #CC-19-010

Adopted November 12, 2019

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- (3) Appointment and removal of officers and employees. To appoint and remove any officers and employees of the city except the city attorney, subject to the rules relating to personnel management;
- (4) Control of departments and officers and employees. To exercise control over all departments of the city government and over all appointive officers and employees thereof, except the city attorney;
- (5) Attendance at City Council meetings. To attend all meetings of the city council unless excused therefrom by the city council, except when his or her removal is under consideration by the city council;
- (6) Recommendation of ordinances. To recommend to the city council for adoption such measures and ordinances as he or she deems necessary or expedient;
- (7) Fiscal advice. To keep the city council at all times fully advised as to the financial conditions and needs of the city;
- (8) Preparation of budget. To prepare and submit to the city council the annual budget;
- (9) Purchases and expenditures. To purchase all supplies for all of the departments or divisions of the city. No expenditure shall be submitted or recommended to the city council, except on report or approval of the city manager;
- (10) Investigation of City affairs. To make investigations into the affairs of the city, and any department or division thereof, and any contract, or the proper performance of any obligations running to the city;
- (11) Investigation of complaints. To investigate all complaints in relation to matters concerning the administration of the city government and in regard to the service maintained by public utilities in the city, and to see that all franchises, permits and privileges granted by the city are faithfully performed and observed;
- (12) Supervision of public buildings. To exercise general supervision over all public buildings, public parks and other public property which are under the control and jurisdiction of the city council and not specifically delegated to a particular board or officer;
- (13) Approval of plans and designs. To exercise directly or through his or her designee discretionary approval of plans, designs and any design amendments or addenda for public improvement projects for which the city council has delegated authority to the city manager or which are within the city manager's discretionary authority. The city manager or his or her designee shall sign the plans and designs indicating approval;
- (14) Devotion of entire time to duties. To devote his or her entire time to the duties of his or her office and the interests of the city;
- (15) Leadership in civic movements. To provide leadership for civic movements designed to benefit the residents of the city when so authorized by the city council;
- (16) Additional duties. To perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinance or resolution of the city council.

The City Council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry, and neither the City Council nor any members thereof shall give orders to any subordinates of the city manager<sup>10</sup>.

<sup>10</sup> MPMC Section [2.08.100](#)

**City manager code of ethics**

The city manager is subject to the International City/County Management Association (ICMA) professional code of ethics that binds the city manager to certain practices that are designed to ensure his or her actions are in support of the City's best interests. Violations of such standards can result in censure.

The mission of ICMA is to create excellence in local governance by developing and fostering professional local government management worldwide. To further this mission, certain principles, as enforced by ICMA Rules of Procedure, shall govern the conduct of every member of ICMA, who shall:

1. Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.
2. Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant.
3. Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.
4. Serve the best interests of the people.
5. Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.
6. Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.
7. Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.
8. Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.
9. Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.
10. Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.
11. Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions pertaining to appointments, pay adjustments, promotions, and discipline.

## CITY COUNCIL POWERS AND RESPONSIBILITIES

City Council Policy #CC-19-010

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12. Public office is a public trust. A member shall not leverage his or her position for personal gain or benefit.

### Appointment to vacancies on the City Council

If a vacancy occurs in the office of a member of the City Council, an election shall be held to fill the vacancy. The person elected shall hold office for the unexpired term of the former incumbent. The election shall be held at the next regularly scheduled election held at least eighty-nine days after the vacancy is created.<sup>11</sup>

The city councilmember elected to represent a district must reside in that district and be a registered voter in that district. Termination of residency in a district by a city councilmember shall create an immediate vacancy for that city council district unless a substitute residence within the district is established within thirty (30) days after the termination of residency.<sup>12</sup>

### Procedure history

Action	Date	Notes
Draft procedure presented	October 1, 2019	City Council directed edits
Procedure adoption	November 12, 2019	

<sup>11</sup> MPMC Section [2.04.190](#)

<sup>12</sup> MPMC Section [2.04.220](#)

# CITY COUNCIL POWERS AND RESPONSIBILITIES

City Council Procedure #CC-19-010

~~Adepted-Effective~~ ~~X-November 12XX~~, 2019

~~Resolution No. XXXX~~



## Purpose

The powers of the City Council to establish policy are quite broad. Essentially, the City Council may undertake any action related to city affairs other than those forbidden or preempted by state or federal law. Specifically, the City Council has the power, in the name of the city, to do and perform all acts and things appropriate to a municipal corporation and for the general welfare of its inhabitants which are not specifically forbidden by the Constitution and laws of the State of California.

It is important to note that the City Council acts as a body. No member has any extraordinary powers beyond those of other members. While the Mayor and ~~Vice Mayor~~ ~~Mayor Pro Tempore~~ have some additional ceremonial and administrative responsibilities as described below, in the establishment execution of policies and procedures, all [city](#) councilmembers are equal.

It is also important to note that policy is established by at least a majority vote of the City Council. While individual [city](#) councilmembers may disagree with decisions of the majority, a decision of the majority does bind the City Council to a course of action. In turn, it is staff's responsibility to ensure the policy of the City Council is upheld. Actions of staff to pursue the policy direction established by a majority of the City Council do not reflect any bias against [city](#) councilmembers who held a minority opinion on an issue.

## Appointment of City Council Officers and City Council ~~Subcommittees~~ [subcommittees](#)

### Selection of Mayor and ~~Mayor Pro Tempore~~ [Vice Mayor](#)

The city council shall meet in December of each year to choose one of its members as mayor and one as mayor pro tempore.<sup>1</sup> ~~The City Council has determined that for the purpose of this policy, the "Mayor Pro Tempore" title shall be replaced with "Vice Mayor" beginning with the annual rotation in December 2019.~~

#### Mayor

The Mayor presides at all meetings of the City Council and performs such other duties consistent with the office as may be imposed by the City Council or by vote of the people. The Mayor does not possess any power of veto. As presiding officer of the City Council, the Mayor is to faithfully communicate the will of the City Council majority in matters of policy. The Mayor is also recognized as the official head of the city for all ceremonial purposes.

The Mayor, unless unavailable, shall sign all ordinances, and other documents that have been adopted by the City Council and require an official signature; except when the city manager has been authorized by City Council action to sign documents. In the event the Mayor is unavailable, the ~~Mayor Pro Tempore~~ [Vice Mayor](#)'s signature may be used.

The Mayor also consults and coordinates with the city manager ~~and Vice Mayor~~ in the development of agendas for meetings of the City Council. The mayor shall appoint members of the Planning Commission, with the approval of the City Council<sup>2</sup>, and the mayor has additional roles and responsibilities in the event of a declared disaster including serving as chairperson of the disaster council<sup>3</sup>.

<sup>1</sup> MPMC Section [2.04.120](#)

<sup>2</sup> MPMC Section [2.12.020](#)

<sup>3</sup> MPMC Section [2.44.040](#)

**CITY COUNCIL POWERS AND RESPONSIBILITIES**

City Council Policy #CC-19-010

Adopted November 12~~Effective XX~~, 2019

Mayor Pro Tempore Vice Mayor

The Mayor Pro Tempore Vice Mayor shall perform the duties of the Mayor during the Mayor's absence, at the pleasure of the City Council.

**Appointment of City Council subcommittees**

City Council subcommittees, when used, are to help the City Council do its job. Subcommittees ordinarily will assist the City Council by preparing policy alternatives and implications for City Council deliberation. City Council subcommittees may not speak or act for the City Council. Subcommittees will be used sparingly and ordinarily in an ad hoc capacity. This policy applies to any group that is formed by City Council action, whether or not it is called a subcommittee. Unless otherwise stated, a subcommittee is deemed to be ad hoc and ceases to exist as soon as its task is complete. Standing subcommittees are City Council subcommittees with regular responsibilities as assigned by the City Council generally spanning more than a single year or project. Standing subcommittees are subject to the Open Meetings Act (Brown Act). Ad hoc subcommittees are not listed below considering their limited nature.

<b>2019 Standing City Council subcommittees</b>
Community grant funding
Rail

**Appointment of City Councilmembers to outside boards and organizations**

Typically, appointments to outside boards and organizations are made at the beginning of a City Council term in December. The Mayor will ask city councilmembers which appointments they desire and will submit recommendations to the full City Council regarding the various outside appointments. Certain appointments are reserved for the incumbent Mayor and Mayor Pro Tempore Vice Mayor as primary and alternate members, respectively. Alternates shall also be appointed to ensure participation in the decision making processes of outside boards and organizations. In the instance where more than one city councilmember wishes to be appointed to an outside board or organization, a vote of the City Council will be taken to confirm appointment of the primary and alternate appointees. Outside boards and organization appointments are as follows:

<b>2019-Outside Boardsboards</b>	<b>Notesnotes</b>
Association of Bay Area Government (ABAG)	Incumbent Mayor and <u>Mayor Pro Tempore Vice Mayor</u>
Bay Area Water Conservation Agency (BAWSCA)	4-year appointment
City/County Association of Governments (C/CAG)	
Emergency Services Council	
Peninsula Clean Energy Authority (PCE)	
San Francisquito Creek Joint Powers Authority	
South Bayside Waste Management Authority	
<b>2019-Outside Organizations organizations</b>	<b>Notesnotes</b>
Airport Community Roundtable	
Caltrain Modernization Local Policy Maker Group	<u>Same members as the Rail Subcommittee</u>
County of Santa Clara Community Resources Group for Stanford University	<u>Same members as subcommittees pertaining to Stanford University</u>
Facebook Local Community Fund	
Grand Boulevard <u>Initiative</u> Taskforce	

**CITY COUNCIL POWERS AND RESPONSIBILITIES**

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League of California Cities (League/LCC), including LCC Peninsula Division	Incumbent Mayor and <del>Vice Mayor</del> <del>Mayor</del> <del>Pro Tempore</del>
Menlo Park Chamber of Commerce	Incumbent Mayor and <del>Vice Mayor</del> <del>Mayor</del> <del>Pro Tempore</del>
San Mateo County Council of Cities City Selection Committee	Incumbent Mayor and <del>Vice Mayor</del> <del>Mayor</del> <del>Pro Tempore</del>

As a City Council appointee to an outside board or organization, the appointee shall represent the policy set by the majority of the City Council at a public meeting. If the appointee is unclear as to the position of the City Council on a particular business item scheduled for vote at the outside board or organization, the appointee shall consult the full City Council under “[City Councilmember reports](#)” section of the public meeting agenda or, if sufficient time is not available, consult the city manager.

~~Appointees to an outside board or organization shall report to the City Council under “City Councilmember reports” following each meeting.~~

As a member of an outside board or organization, appointees must attend all regular scheduled meetings of the outside board or organization to ensure that Menlo Park’s has a voice on matters of significance to the community. If an appointee is not available, s/he shall coordinate with the alternate to ensure Menlo Park representation.

**Appointment of advisory bodies and advisory body liaisons**

**Advisory ~~Bodies~~bodies**

The City Council has formed several commissions, committees, and taskforces, collectively referred to as “advisory bodies”. The City Council shall adopt a City Council procedure to provide guidelines on the appointment, roles and responsibilities<sup>4</sup> of the various advisory bodies excluding the Planning Commission which is established by Municipal Code<sup>5</sup> and is vested with statutory duties.

<b>2019 <del>CC</del>Commissions</b>	<b>2019 Committees/Taskforces<sup>6</sup></b>
Complete Streets Commission	Belle Haven Neighborhood Library Advisory Committee
Environmental Quality Commission	Finance and Audit Committee
Housing Commission	<del>Sister City Committee</del> <del>Heritage Tree Taskforce</del>
Library Commission	<del>Transportation Master Plan Oversight and Outreach Committee</del> <del>Sister City Committee</del>
Parks & Recreation Commission	<del>Transportation Master Plan Oversight and Outreach Committee</del>
Planning Commission	

**Liaisons to City Council advisory bodies**

[City](#) Councilmembers are assigned to serve in a liaison capacity with one or more City Council advisory bodies. The purpose of the liaison assignments is to facilitate communication between the City Council and the advisory body. The liaison also helps to increase the City Council’s familiarity with the membership, programs and issues of the advisory body. In fulfilling their liaison assignment, [city](#) councilmembers may elect to attend advisory body meetings periodically to observe the activities of the advisory body or simply maintain communication with the advisory body chair on a regular basis.

<sup>4</sup> MPMC Section [2.04.200](#)

<sup>5</sup> MPMC Section [2.12.040](#)

<sup>6</sup> 2019 Committees and taskforces all have City Councilmembers serving as voting members and no liaison is required.



## CITY COUNCIL POWERS AND RESPONSIBILITIES

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### Assignment of liaisons

Typically, advisory body liaison assignments are made at the beginning of a City Council term in December. The Mayor will ask [city](#) councilmembers which liaison assignments they desire and will submit recommendations to the full [City](#) Council regarding the assignments. In the instance where more than one [city](#) councilmembers wishes to be the appointed liaison to a City Council advisory body, a vote of the City Council will be taken to confirm assignments.

[City](#) Councilmembers should be sensitive to the fact that they are not participating members of the advisory body, but are there rather to create a linkage between the City Council and advisory body. In interacting with advisory bodies, [city](#) councilmembers are to reflect the views of the City Council as a body. Being an advisory body liaison bestows no special right with respect to advisory body business.

### **City Council relationship with advisory bodies**

The City Council has determined that [city](#) councilmembers should not lobby advisory body members for particular votes. However, [city](#) councilmembers may attend meetings as residents and request that advisory body members consider certain issues during their deliberations or in unusual instances as [city](#) councilmembers to reflect the views of the City Council as a body.

[City](#) Councilmembers choosing to attend advisory body meetings should be sensitive to the fact that they are not participating members of the body. [City](#) Councilmembers have the rights, and only the rights, of ordinary citizens with respect to advisory bodies – including the right to write to and speak to the advisory body during public comment periods.

### **Appointment of city attorney and city manager**

The City Council appoints two positions within the city organization: the city manager and city attorney. Both positions serve at the will of the City Council and have employment agreements that specify certain terms of employment including an annual evaluation by the City Council.

#### **Appointment of city attorney**

The city attorney is the legal adviser for the City Council, city manager and departments. The general legal responsibilities of the city attorney are to: 1) provide legal assistance necessary for formulation and implementation of legislative policies and projects; 2) represent the City's interest, as determined by the City Council, in litigation, administrative hearings, negotiations and similar proceedings; 3) prepare ordinances, resolutions, contracts and other legal documents to best reflect and implement the purposes for which they are prepared; and 4) keep the City Council and staff apprised of court rulings and legislation affecting the legal interest of the City. It is important to note that the city attorney does not represent individual [city](#) councilmembers, but the City Council as a whole.

#### **Appointment of city manager**

The city manager shall be appointed by the City Council solely on the basis of his or her executive and administrative qualifications and ability. He or she shall hold office at and during the pleasure of the City Council<sup>7</sup>. The city manager shall receive such compensation as the City Council from time to time determines and fixes by resolution and such compensation shall be a proper charge against such funds of the city that the City Council designates<sup>8</sup>.

<sup>7</sup> MPMC Section [2.08.010](#)

<sup>8</sup> MPMC Section [2.08.060](#)



## CITY COUNCIL POWERS AND RESPONSIBILITIES

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The city manager shall be the administrative head of the city government under the direction and control of the city council, except as otherwise provided in the Municipal Code. He or she shall be responsible for the efficient administration of all the affairs of the city, which are under his or her control. In addition to his or her general powers as administrative head, and not as a limitation thereon, it shall be his or her duty and he or she shall have the power<sup>9</sup>:

- (1) Enforcement of laws. To see that all laws and ordinances of the city are duly enforced, and that all franchises, permits and privileges granted by the city are faithfully observed;
- (2) To direct, etc., officers and employees. To control, order and give directions to all heads of departments, subordinate officers, and employees of the city, except the city attorney; and to transfer employees from one (1) department to another, and to consolidate or combine offices, positions, departments or units under his or her direction;
- (3) Appointment and removal of officers and employees. To appoint and remove any officers and employees of the city except the city attorney, subject to the rules relating to personnel management;
- (4) Control of departments and officers and employees. To exercise control over all departments of the city government and over all appointive officers and employees thereof, except the city attorney;
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- (13) Approval of plans and designs. To exercise directly or through his or her designee discretionary approval of plans, designs and any design amendments or addenda for public improvement projects for which the city council has delegated authority to the city manager or which are within the city

<sup>9</sup> MPMC Section [2.08.080](#)

## CITY COUNCIL POWERS AND RESPONSIBILITIES

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manager's discretionary authority. The city manager or his or her designee shall sign the plans and designs indicating approval;

- (14) Devotion of entire time to duties. To devote his or her entire time to the duties of his or her office and the interests of the city;
- (15) Leadership in civic movements. To provide leadership for civic movements designed to benefit the residents of the city when so authorized by the city council;
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3. Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.
4. Serve the best interests of the people.
5. Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.
6. Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.
7. Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.

<sup>10</sup> MPMC Section [2.08.100](#)

## CITY COUNCIL POWERS AND RESPONSIBILITIES

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8. Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.
9. Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.
10. Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.
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### Appointment to vacancies on the City Council

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The [city](#) council-member elected to represent a district must reside in that district and be a registered voter in that district. Termination of residency in a district by a [city](#) council-member shall create an immediate vacancy for that city council district unless a substitute residence within the district is established within thirty (30) days after the termination of residency.<sup>12</sup>

### Procedure history

Action	Date	Notes
<a href="#">Draft procedure presented</a>	<a href="#">October 1, 2019</a>	<a href="#">City Council directed edits</a>
<a href="#">Procedure adoption</a>	<a href="#">November 12, 2019</a>	

<sup>11</sup> MPMC Section [2.04.190](#)

<sup>12</sup> MPMC Section [2.04.220](#)



## STAFF REPORT

### City Council

Meeting Date: 11/12/2019

Staff Report Number: 19-248-CC

Consent Calendar: **Adopt Resolution No. 6529 authorizing the city manager to sign a contract amendment with the State of California Department of Education to reimburse the City up to \$1,052,860 for child care services at the Belle Haven Child Development center for fiscal year 2019-20**

### Recommendation

Staff recommends that the City Council adopt Resolution No. 6529 executing an amendment to the contract with the State of California department of education for reimbursement to the City for up to \$1,052,860 for the delivery of child care services at the Belle Haven Child Development Center for fiscal year 2019-20.

### Policy Issues

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. If the State makes any amendment to the current agreement to release additional funds for the program it will require further action by the City Council. Staff will bring back this item to present additional information and for consideration by the City Council if it becomes necessary.

### 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 California department of education. 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 amendment is included as Attachment A. Annual contracts are often amended at this time each 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 (CDE.) The reimbursement rate is \$53.69 per child per day, up to a maximum of \$1,052,860 based on the minimum service requirements.

Fiscal year	Adopted program budget	Amended program budget	Adopted State and Federal subsidy	Amended State and Federal subsidy	Percent of State decrease or increase	Number of subsidized slots
2012-13	\$1,278,913	\$1,217,385	\$707,945	\$577,421	-18.40%	72
2013-14	\$1,087,187	\$1,136,416	\$577,414	\$620,043	7.40%	84
2014-15	\$1,167,599	\$1,186,895	\$587,872	\$732,964	18.20%	96
2015-16	\$1,264,337	\$1,265,051	\$732,964	\$746,685	1.90%	96
2016-17	\$1,484,874	\$1,485,716	\$796,890	\$837,694	12.10%	96
2017-18	\$1,402,827	\$1,512,099	\$837,694	\$946,966	13%	96
2018-19	\$1,523,424	\$1,523,424	\$946,966	\$1,011,860	6.85%	96
2019-20	*\$1,824,214	\$	\$1,011,860	\$1,052,860	0%	96

**Impact on City Resources**

The City will receive up to \$1,052,422 to support the BHDC through the State contract proposed for authorization. The City anticipates receiving additional revenues from parent fees, small grants, food reimbursements and other small revenue sources. The City’s budgeted direct cost to operate the BHDC is \$1,824,214 for the 2019-20 fiscal year. The City’s budgeted net general fund contribution for the BHDC program for the current fiscal year is \$677,954.



### **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 California department of education funding contract amendment for fiscal year 2019-20
- B. Resolution No. 6529

Report prepared by:  
Carmen Lo, Recreation Coordinator



Amendment 02

DATE: July 01, 2019

CONTRACT NUMBER: CSPP-9522

PROGRAM TYPE: CALIFORNIA STATE PRESCHOOL PROGRAM

PROJECT NUMBER: 41-02184-00-9

LOCAL AGREEMENT FOR CHILD DEVELOPMENT SERVICES

Budget Act/Rate Change

CONTRACTOR'S NAME: CITY OF MENLO PARK

This agreement with the State of California dated July 01, 2019 designated as number CSPP-9522 and Amendment #01 (Add Pilot Language) 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 \$1,052,422.00 in place thereof.

The Maximum Rate per child day of enrollment payable pursuant to the provisions of the agreement shall be amended by deleting reference to \$52.12 and inserting \$53.69 in place thereof.

SERVICE REQUIREMENTS

The minimum Child Days of Enrollment (CDE) Requirement shall be amended by deleting reference to 19,414.0 and inserting 19,601.8 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.

<b>STATE OF CALIFORNIA</b>		<b>CONTRACTOR</b>	
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 \$ 40,562	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE Department of General Services use only	
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$ 1,011,860	(OPTIONAL USE) See Attached		
TOTAL AMOUNT ENCUMBERED TO DATE \$ 1,052,422	ITEM See Attached	CHAPTER	STATUTE 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	



CONTRACTOR'S NAME: CITY OF MENLO PARK

CONTRACT NUMBER: CSPP-9522

# Amendment 02

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 0	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE Federal		
PRIOR AMOUNT ENCUMBERED \$ 0	(OPTIONAL USE)0656 13609-2184	FC# 93.596	PC# 000321	
TOTAL AMOUNT ENCUMBERED TO DATE \$ 0	ITEM 30.10.020.001 6100-194-0890	CHAPTER B/A	STATUTE 2019	FISCAL YEAR 2019-2020
	OBJECT OF EXPENDITURE (CODE AND TITLE) 706 SACS: Res-5025 Rev-8290			

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 0	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE Federal		
PRIOR AMOUNT ENCUMBERED \$ 0	(OPTIONAL USE)0656 15136-2184	FC# 93.575	PC# 000324	
TOTAL AMOUNT ENCUMBERED TO DATE \$ 0	ITEM 30.10.020.001 6100-194-0890	CHAPTER B/A	STATUTE 2019	FISCAL YEAR 2019-2020
	OBJECT OF EXPENDITURE (CODE AND TITLE) 706 SACS: Res-5025 Rev-8290			

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 0	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE General		
PRIOR AMOUNT ENCUMBERED \$ 0	(OPTIONAL USE)0656 23038-2184			
TOTAL AMOUNT ENCUMBERED TO DATE \$ 0	ITEM 30.10.010. 6100-196-0001	CHAPTER B/A	STATUTE 2019	FISCAL YEAR 2019-2020
	OBJECT OF EXPENDITURE (CODE AND TITLE) 706 SACS: Res-6105 Rev-8590			

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 0	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE General		
PRIOR AMOUNT ENCUMBERED \$ 0	(OPTIONAL USE)0656 23254-2184			
TOTAL AMOUNT ENCUMBERED TO DATE \$ 0	ITEM 30.10.020.001 6100-194-0001	CHAPTER B/A	STATUTE 2019	FISCAL YEAR 2019-2020
	OBJECT OF EXPENDITURE (CODE AND TITLE) 706 SACS: Res-6105 Rev-8590			

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 40,562	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs	FUND TITLE General		
PRIOR AMOUNT ENCUMBERED \$ 1,011,860	(OPTIONAL USE)0656 25451-2184			
TOTAL AMOUNT ENCUMBERED TO DATE \$ 1,052,422	ITEM 30.10.020.001 6100-194-0001	CHAPTER B/A	STATUTE 2019	FISCAL YEAR 2019-2020
	OBJECT OF EXPENDITURE (CODE AND TITLE) 706 SACS: Res-0000 Rev-0000			

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	DATE	Page 31

**RESOLUTION NO. 6529**

**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 2019-20**

NOW, THEREFORE BE IT RESOLVED, that the City of Menlo Park, acting by and through its City Council, having considered and been fully advised in the matter and good cause appearing therefore do authorize entering into local agreement number CSPP-9522-02 reimbursing the City up to \$1,052,422 for child care services at the Belle Haven Child Development Center for fiscal year 2019-20, and that the person who is listed below is authorized to sign the transaction for the City Council.

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 twelfth day of November, 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 twelfth day of November, 2019.

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Judi A. Herren, City Clerk



## STAFF REPORT

**City Council**  
**Meeting Date:** 11/12/2019  
**Staff Report Number:** 19-251-CC

**Regular Business:** **Adopt urgency Ordinance No. 1063 implementing tenant eviction protections and limiting large rental rate increases effective immediately to avoid circumvention of AB 1482**

### Recommendation

Staff recommends that the City Council adopt an urgency ordinance implementing tenant eviction protections and large rental rate increases effective immediately to avoid circumvention of AB 1482 (Attachment A.)

### Policy Issues

Assembly Bill 1482 was signed by the Governor on October 8, 2019 and goes into effect on January 1, 2020. (Attachment B.) This new law establishes statewide “just cause” eviction protections and caps annual rent increases for covered residential tenancies in California. The adoption of the proposed urgency ordinance would provide short term tenant protections until January 1, 2020, the effective date of AB 1482.

### Background

On November 5, 2019, the City Council directed the city attorney to draft an urgency ordinance to address recent concerns regarding the need for tenant protections in advance of the implementation of AB 1482.

#### California State Assembly Bill 1482

On September 11, 2019, California State Assembly Bill 1482 (AB 1482) passed the Legislature. On October 8, 2019, the Governor signed the bill into law. AB 1482 implements two concurrent protections on applicable units: (1) just cause eviction protection, which includes providing a one-month rent payment for relocation assistance when a landlord terminates a lease through no fault of the tenant and (2) a cap on rent increases. A discussion of each of these provisions follows.

#### Just cause eviction protection

AB 1482 includes just cause eviction protections for tenants if they have lived in a unit for 12 months or more. Just cause eviction protection would require a landlord to have a valid reason for terminating a tenancy. Some examples of just cause include non-payment of rent, violation of a lease term, and nuisance. The just cause eviction protections only apply to tenants who have resided in a unit for 12 months or more. AB 1482 does not apply to tenants who have been residing in the unit for less than 12 months. AB 1482 also addresses limited “no-fault” evictions such as owner occupancy, occupancy of the unit by certain members of the owner’s family, withdrawal of the unit from the market (Ellis Act,) complying with a government order related to habitability of the building and intent to demolish or substantially remodel the property. In these circumstances, AB 1482 requires landlords to provide tenants with one month’s rent as

relocation assistance. The relocation payment is paid without regard to a tenant's income or other characteristics. Note this component of the State law is largely similar to the tenant relocation ordinance 1053 the City Council adopted on March 12, 2019.

### Rent cap

AB 1482 introduces a cap on rent increases that would allow a landlord to raise the rents by 5 percent per year plus the percentage change in the cost of living, or 10 percent, whichever is lower. The increase is tied to annual April/April Bay Area consumer price index (CPI.) To provide historical context, the annual April CPI percentage change for the last four years was 3.2 percent in 2018, 3.8 percent in 2017, 2.7 percent in 2016 and 2.4 percent in 2015. The April 2019 Bay Area CPI increase was 4.0 percent, which would result in a maximum rent increase of 9.0 percent once AB 1482 becomes effective.

AB 1482 also contains a unique retroactive provision applicable to rents increased after March 15, 2019. If rents were increased after March 15, 2019, the rent on January 1, 2020 is reduced to the rent as of March 15, 2019, plus the maximum increase allowed by AB 1482. However, the legislation also provides that if the tenant pays the increased rent during this period, *the landlord does not have to refund the rent increase*. Thus, the tenant is placed in a difficult position. If they do not pay the rent, they risk being evicted for nonpayment of rent. On the other hand, if they do pay the rent, the landlord is not required to refund the overpayment. As discussed below, the proposed local ordinance attempts to address this dilemma by establishing a legal defense to an unlawful detainer based on non-payment of rent based on this particular circumstance.

### Units covered by AB 1482

Under AB 1482 certain housing units are not subject to provisions in the law. The just cause protections and the rent cap limitations do not apply to units:

- Issued a certificate of occupancy in the previous 15 years
- Dormitories owned by an educational institution
- Affordable housing restricted by a deed covenant, regulatory agreement or other recorded document
- Single family homes or condominiums provided the owner is not a real estate investment trust, a corporation, or a limited liability company where at least one member is a corporation, so long as the tenants are given notice of the exemption as required by the statute that the just cause protections do not apply to the tenant
- Duplexes where the owner occupied one of the units as the owner's principal residents at the commencement of the tenancy and continues to occupy the property

In addition to the unit types listed above, the following units are exempt from the just cause protections only:

- Transient and tourist hotel occupancies
- Housing in nonprofit hospitals, religious facilities, extended care facility, license care facility for the elderly or an adult residential facility
- Housing where the tenant shares bathroom or kitchen facilities with the owner and the housing is the owner's principal residence
- Owner-occupied homes where the owner rents no more than 2 units or bedrooms, including accessory dwelling units
- Rental units covered by a local just cause ordinance if the ordinance was adopted on or before September 1, 2019, or rental units covered by a local ordinance adopted after September 1, 2019 that is more protective than the provisions of AB 1482.

### AB 1482 enforcement

Regarding enforcement of the provisions of AB 1482 the law is unclear and does not specify how enforcement is to occur. It is assumed that tenants will need to enforce the law by way of a private cause of action (enforce by civil action.) City staff are not equipped at this time to lead enforcement of these provisions, however, the City partners with Community Legal Services and the Legal Aid Society of San Mateo County and both organizations have confirmed they can provide legal resources and referral services for tenants, regardless of income.

### AB 1482 legal challenge

On October 15, 2019, an anti-rent control group filed a lawsuit in U.S. District Court against California Governor Gavin Newsom and the City of Long Beach. The lawsuit, filed by attorney Paul Beard of Alston & Bird, argues that AB 1482 violates the Takings Clause in the California Constitution, as well as the Fourth, Fifth and Fourteenth Amendments of the U.S. Constitution. Other legal challenges to AB 1482 are rumored as well.

## **Analysis**

### Urgency ordinance

In order to enact an urgency ordinance, the City Council needs to declare that there is a current and immediate threat to the public peace, health and safety. Having a verifiable factual basis for this declaration will help position the City to survive a legal challenge. In Menlo Park an urgency ordinance needs a 4/5 vote for City Council approval (four affirmative votes) and would go into effect immediately. The proposed urgency ordinance would expire on December 31, 2019 to coincide with the effective date of AB 1482.

### Just cause protection

The City is aware of at least one egregious case where a landlord recently served eviction notices to longstanding tenants in an apparent attempt to evict them before January 1, 2020. (See recitals in Attachment A.) The proposed ordinance would prevent landlords from acting on any eviction notice served after November 12, 2019 if the notice was not based on just cause. In addition, if the notice was based on a “no fault” just cause, the landlord could proceed but would have to pay relocation payments as specified under AB 1482 or in the City’s recently adopted tenant relocation ordinance, whichever is more tenant protective. Likewise, any eviction actions occurring after November 12, 2019 would have to comply with the just cause protections established in AB 1482.

### Rent cap protection

The proposed urgency ordinance implements AB 1482’s retroactive prohibition against large rent increases from March 15, 2019. While AB 1482’s rent cap is retroactive to March 15, 2019, the proposed urgency ordinance focuses on rent increases served on or after September 12, 2019, 60 days before the effective date of the urgency ordinance. This date was selected for several reasons. First, the City Council requested the city attorney to explore retroactivity. A statute or ordinance has retroactive effect if it substantially changes the legal effect of past events. Laws do not operate retroactively unless the legislative body enacting the measure clearly indicates its intent that they do so.<sup>1</sup> Retroactive application of a city ordinance will be reversed if it substantially changes the legal rights and obligations of a party.<sup>2</sup> While there is no guarantee, it is likely a court would find a 60-day retroactive date to be reasonable under the circumstances. SB 1482 limits the landlord’s right to increase rent during this 60-day retroactive period, so the landlord’s

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<sup>1</sup> *Western Security Bank v. Superior Court* (1997) 15 Cal.4th 232, 243.

<sup>2</sup> *City of Monte Sereno v Padgett* (2007) 149 Cal.App.4th 1530, 1539.

rights are not substantially changed. Second, under State law landlords must provide a 30 or 60-day notice of a rent increase. The ordinance thus protects those tenants who would still be in the notice period. Extending the retroactivity date out further is not supported at this time by evidence, would be logistically challenging as some tenants may have already moved out and could expose the City to litigation.

To protect those tenants who received rent increase notices after September 12, 2019, the ordinance clarifies that such notices are void as to any excess rent increases and provides tenants with a legal defense to an unlawful detainer action if they are evicted for failing to pay the increased rent. Landlords will still be permitted to enforce rental increases that fall within AB 1482 limits, but the landlord must serve a corrected notice within 10 days of the effective date of this ordinance.

### **Impact on City Resources**

The adoption of the current urgency ordinance will result in temporary increased workload for the community development department and city attorney's office as it is expected that tenants will contact the City with questions. City staff will provide information on the provisions of the ordinance and make referrals to legal resources.

### **Environmental Review**

The adoption of the proposed ordinance is not subject to the provisions of the California Environmental Quality Act ("CEQA") under Sections 15378 and 15061(b)(3) of the of the CEQA Guidelines.

### **Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting and posting a notice at the City Hall development service counter.

### **Attachments**

- A. Urgency Ordinance No. 1063
- B. AB 1482

Report prepared by:  
Cara Silver, Assistant City Attorney  
William L. McClure, City Attorney

**ORDINANCE NO. 1063****URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK IMPLEMENTING TENANT EVICTION PROTECTIONS AND LIMITING LARGE RENTAL RATE INCREASES EFFECTIVE IMMEDIATELY TO AVOID CIRCUMVENTION OF AB 1482**

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

**SECTION 1. FINDINGS AND DETERMINATIONS.**

A. The “Tenant Protection Act of 2019” (Assembly Bill [“AB”] 1482) was approved by the California Legislature on September 11, 2019 and signed by the Governor on October 8, 2019.

B. Effective January 1, 2020 the Tenant Protection Act of 2019 codified as California Civil Code sections 1946.2 (Just Cause Eviction) and 1947.12 (Rent Caps) will provide eviction protections and limits on rent increases in the State of California.

C. The City Council, pursuant to its police powers, has broad authority to maintain public peace, health, and safety of its community and preserving the quality of life for its residents.

D. Housing instability threatens the public peace, health, and safety as eviction from one’s home can lead to prolonged homelessness; increased residential mobility; loss of community; strain on household finances due to the necessity of paying rental application fees and security deposits; stress and anxiety experienced by those displaced; increased commute times and traffic impacts if displaced workers cannot find affordable housing within the city in which they work; and interruption of the education of children in the home.

E. Eviction creates particular hardships for individuals and households of limited means, given the shortage of housing, particularly affordable housing, within the City of Menlo Park and the San Francisco Bay Area region generally.

F. The City has received tenant testimonials that landlords are significantly increasing rents prior to the end of 2019, in an attempt to evict tenants during a brief window ahead of the Tenant Protection Act of 2019 becoming effective. For example, on October 25, 2019, a local teacher who has resided in her apartment unit for 20 years was served with a rent increase from \$2,500 to \$3,000. This represents a 20% increase, when only a 9% increase is allowed.

G. As AB 1482 does not go into effect until January 1, 2020, landlords could seek to evict tenants without cause in order to implement rent increases that would not otherwise be possible after the effective date. The City has received tenant testimonials that landlords have served no fault eviction notices in the last couple of months to at least four tenants in Menlo Park. Two of the tenants receiving the notice were seniors. One of the tenants had recently undergone a leg amputation and has resulting severe mobility issues.

H. The City desires to prohibit such exorbitant rental rate increases as well as evictions without just cause during this transition period.

I. The City Council finds and determines that regulating the relations between residential landlords and tenants will increase certainty and fairness within the residential rental market in the City and thereby serve the public peace, health, and safety.

J. Government Code section 36937(b) authorizes the adoption of an urgency ordinance to protect the public peace, health or safety, where there is a declaration of the facts constituting the urgency and the ordinance is adopted by four-fifths of the City Council.

K. This urgency ordinance would essentially establish the rental protections that will go into effect on January 1, 2020 under AB 1482 immediately within the City of Menlo Park to (1) prohibit an owner of residential property (with specific exceptions) from terminating a tenancy without just cause, and (2) prohibit an owner of residential property from annually increasing rent more than 5% plus the percentage change in the cost of living (which amounts to a total of 9% for the City of Menlo Park).

L. An urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, and safety as failure to adopt this urgency ordinance could result in the displacement of the City's residents and community members.

M. Based upon the above-described facts and circumstances, and for these same reasons, the City Council finds that this ordinance is necessary as an emergency measure for preserving the public peace, health and safety, and therefore that it may be introduced and adopted at one and the same meeting, and shall take effect immediately upon its adoption.

## SECTION 2. INCORPORATION OF ASSEMBLY BILL 1482

Assembly Bill 1482 signed by the Governor on October 8, 2019 and attached as Exhibit A is hereby incorporated by reference into this ordinance and shall be effective in Menlo Park immediately as described in Sections 3 and 4 below.

## SECTION 3. JUST CAUSE PROTECTIONS.

(a) Section 2 of AB 1482 (referred to here as the "Just Cause Protections"), shall be effective as follows:

(1) Any termination of tenancy notice served by an Owner on a tenant on or after November 12, 2019, shall comply with the Just Cause Protections of AB 1482.

(2) Any unlawful detainer action filed on or after November 12, 2019, with respect to a Tenancy shall comply with the Just Cause Protections.

(3) Menlo Park Municipal Code Chapter 8.56 (Tenant Relocation Assistance) requires the payment of relocation assistance to displaced eligible residential households, as specified in Chapter 8.56. In the event that a Tenancy is eligible for a relocation assistance payment or rent waiver under the Just Cause Protections and the Relocation Assistance Ordinance, the requirement that results in the greater financial benefit for the tenant shall govern.

(b) The Owner's failure to comply with the Just Cause Protections as required under this Ordinance may be asserted as an affirmative defense to any unlawful detainer action.

(c) Any waiver of the rights under this section shall be void as contrary to public policy.



(c) For the purposes of this Ordinance, the following definitions shall apply:

(1) "Owner" and "residential real property" have the same meaning as those terms are defined in Civil Code Section 1954.51.

(2) "Tenancy" means the lawful occupation of residential real property and includes a lease or sublease.

#### SECTION 4. RENTAL RATE LIMIT PROVISIONS.

(a) Section 3 of AB 1482 (referred to here as the "Rental Rate Limit Provisions"), shall be effective as follows:

(1) All notices of rent increase served on Tenancies on or after September 12, 2019 shall comply with the Rental Rate Limit Provisions. This section shall become operative on November 12, 2019.

(2) In the event that an Owner has served a tenant with any rent increase notice on or after September 12, 2019 that does not comply with the Rental Rate Limit Provisions:

i. The notice shall be invalid as to the amount of rent in excess of that allowed by the Rental Rate Limit Provisions;

ii. The rental rate increase will be deemed to be the rental rate increase permitted by the Rental Rate Limit Provisions, if any, provided the Owner serves the tenant with an amended notice containing the authorized amount within ten (10) days of the effective date of this ordinance;

(b) The Owner's failure to comply with the Rental Rate Provisions as required under this Ordinance may be asserted as an affirmative defense to any unlawful detainer action.

(c) Any waiver of the rights under this section shall be void as contrary to public policy.

(d) For the purposes of this ordinance, the following definitions shall apply:

(1) "Owner" and "residential real property" shall have the same meaning as those terms are defined in Section 1954.51.

(2) "Tenancy" means the lawful occupation of residential real property and includes a lease or sublease.

SECTION 5. If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or unenforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

SECTION 6. The City Council hereby finds that this ordinance is not subject to the provisions of the California Environmental Quality Act ("CEQA") under Sections 15378 and 15061(b)(3) of the of the CEQA Guidelines.

SECTION 7. As set forth in the findings above, this ordinance is necessary for preserving the public safety, health, and welfare and is adopted on an urgency basis. This ordinance is effective immediately and shall expire on December 31, 2019.

PASSED AND ADOPTED as an urgency ordinance of the City of Menlo Park at a special meeting of said City Council on the twelfth day of November, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

\_\_\_\_\_  
Ray Mueller, Mayor

ATTEST:

\_\_\_\_\_  
Judi A. Herren, City Clerk

**Assembly Bill No. 1482**

CHAPTER 597

An act to add and repeal Sections 1946.2, 1947.12, and 1947.13 of the Civil Code, relating to tenancy.

[Approved by Governor October 8, 2019. Filed with Secretary of State October 8, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1482, Chiu. Tenant Protection Act of 2019: tenancy: rent caps.

Existing law specifies that a hiring of residential real property, for a term not specified by the parties, is deemed to be renewed at the end of the term implied by law unless one of the parties gives written notice to the other of that party's intention to terminate. Existing law requires an owner of a residential dwelling to give notice at least 60 days prior to the proposed date of termination, or at least 30 days prior to the proposed date of termination if any tenant or resident has resided in the dwelling for less than one year, as specified. Existing law requires any notice given by an owner to be given in a prescribed manner, to contain certain information, and to be formatted, as specified.

This bill would, with certain exceptions, prohibit an owner, as defined, of residential real property from terminating a tenancy without just cause, as defined, which the bill would require to be stated in the written notice to terminate tenancy when the tenant has continuously and lawfully occupied the residential real property for 12 months, except as provided. The bill would require, for certain just cause terminations that are curable, that the owner give a notice of violation and an opportunity to cure the violation prior to issuing the notice of termination. The bill, if the violation is not cured within the time period set forth in the notice, would authorize a 3-day notice to quit without an opportunity to cure to be served to terminate the tenancy. The bill would require, for no-fault just cause terminations, as specified, that the owner, at the owner's option, either assist certain tenants to relocate, regardless of the tenant's income, by providing a direct payment of one month's rent to the tenant, as specified, or waive in writing the payment of rent for the final month of the tenancy, prior to the rent becoming due. The bill would require the actual amount of relocation assistance or rent waiver provided to a tenant that fails to vacate after the expiration of the notice to terminate the tenancy to be recoverable as damages in an action to recover possession. The bill would provide that if the owner does not provide relocation assistance, the notice of termination is void. The bill would except certain properties and circumstances from the application of its provisions. The bill would require an owner of residential property to provide prescribed notice to a tenant of the tenant's rights under these

provisions. The bill would not apply to residential real property subject to a local ordinance requiring just cause for termination adopted on or before September 1, 2019, or to residential real property subject to a local ordinance requiring just cause for termination adopted or amended after September 1, 2019, that is more protective than these provisions, as defined. The bill would void any waiver of the rights under these provisions. The bill would repeal these provisions as of January 1, 2030.

Existing law governs the hiring of residential dwelling units and requires a landlord to provide specified notice to tenants prior to an increase in rent. Existing law, the Costa-Hawkins Rental Housing Act, prescribes statewide limits on the application of local rent control with regard to certain properties. That act, among other things, authorizes an owner of residential real property to establish the initial and all subsequent rental rates for a dwelling or unit that meets specified criteria, subject to certain limitations.

This bill would, until January 1, 2030, prohibit an owner of residential real property from, over the course of any 12-month period, increasing the gross rental rate for a dwelling or unit more than 5% plus the percentage change in the cost of living, as defined, or 10%, whichever is lower, of the lowest gross rental rate charged for the immediately preceding 12 months, subject to specified conditions. The bill would prohibit an owner of a unit of residential real property from increasing the gross rental rate for the unit in more than 2 increments over a 12-month period, after the tenant remains in occupancy of the unit over a 12-month period. The bill would exempt certain properties from these provisions. The bill would require the Legislative Analyst's Office to submit a report, on or before January 1, 2030, to the Legislature regarding the effectiveness of these provisions. The bill would provide that these provisions apply to all rent increases occurring on or after March 15, 2019. The bill would provide that in the event that an owner increased the rent by more than the amount specified above between March 15, 2019, and January 1, 2020, the applicable rent on January 1, 2020, shall be the rent as of March 15, 2019, plus the maximum permissible increase, and the owner shall not be liable to the tenant for any corresponding rent overpayment. The bill would authorize an owner who increased the rent by less than the amount specified above between March 15, 2019, and January 1, 2020, to increase the rent twice within 12 months of March 15, 2019, but not by more than the amount specified above. The bill would void any waiver of the rights under these provisions.

The Planning and Zoning Law requires the owner of an assisted housing development in which there will be an expiration of rental restrictions to, among other things, provide notice of the proposed change to each affected tenant household residing in the assisted housing development subject to specified procedures and requirements, and to also provide specified entities notice and an opportunity to submit an offer to purchase the development prior to the expiration of the rental restrictions.

This bill would authorize an owner of an assisted housing development, who demonstrates, under penalty of perjury, compliance with the provisions described above with regard to the expiration of rental restrictions, to

establish the initial unassisted rental rate for units without regard to the cap on rent increases discussed above, but would require the owner to comply with the above cap on rent increases for subsequent rent increases in the development. The bill would authorize an owner of a deed-restricted affordable housing unit or an affordable housing unit subject to a regulatory restriction contained in an agreement with a government agency limiting rental rates that is not within an assisted housing development to establish the initial rental rate for the unit upon the expiration of the restriction, but would require the owner to comply with the above cap on rent increases for subsequent rent increases for the unit. The bill would repeal these provisions on January 1, 2030. The bill would void any waiver of the rights under these provisions. By requiring an owner of an assisted housing development to demonstrate compliance with specified provisions under penalty of perjury, this bill would expand the existing crime of perjury and thus would impose a state-mandated local program.

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

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

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

SECTION 1. This act shall be known, and may be cited, as the Tenant Protection Act of 2019.

SEC. 2. Section 1946.2 is added to the Civil Code, to read:

1946.2. (a) Notwithstanding any other law, after a tenant has continuously and lawfully occupied a residential real property for 12 months, the owner of the residential real property shall not terminate the tenancy without just cause, which shall be stated in the written notice to terminate tenancy. If any additional adult tenants are added to the lease before an existing tenant has continuously and lawfully occupied the residential real property for 24 months, then this subdivision shall only apply if either of the following are satisfied:

(1) All of the tenants have continuously and lawfully occupied the residential real property for 12 months or more.

(2) One or more tenants have continuously and lawfully occupied the residential real property for 24 months or more.

(b) For purposes of this section, “just cause” includes either of the following:

(1) At-fault just cause, which is any of the following:

(A) Default in the payment of rent.

(B) A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the Code of Civil Procedure, including, but not limited to, violation of a provision of the lease after being issued a written notice to correct the violation.

(C) Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(D) Committing waste as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(E) The tenant had a written lease that terminated on or after January 1, 2020, and after a written request or demand from the owner, the tenant has refused to execute a written extension or renewal of the lease for an additional term of similar duration with similar provisions, provided that those terms do not violate this section or any other provision of law.

(F) Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat, as defined in subdivision (a) of Section 422 of the Penal Code, on or off the residential real property, that is directed at any owner or agent of the owner of the residential real property.

(G) Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(H) The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of this code, and Sections 13113.7 and 17926.1 of the Health and Safety Code.

(I) Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(J) The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or a licensee as described in paragraph (1) of Section 1161 of the Code of Civil Procedure.

(K) When the tenant fails to deliver possession of the residential real property after providing the owner written notice as provided in Section 1946 of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender that is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the Code of Civil Procedure.

(2) No-fault just cause, which includes any of the following:

(A) (i) Intent to occupy the residential real property by the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents.

(ii) For leases entered into on or after July 1, 2020, clause (i) shall apply only if the tenant agrees, in writing, to the termination, or if a provision of the lease allows the owner to terminate the lease if the owner, or their spouse, domestic partner, children, grandchildren, parents, or grandparents, unilaterally decides to occupy the residential real property. Addition of a provision allowing the owner to terminate the lease as described in this clause to a new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1).

(B) Withdrawal of the residential real property from the rental market.

(C) (i) The owner complying with any of the following:

(I) An order issued by a government agency or court relating to habitability that necessitates vacating the residential real property.

(II) An order issued by a government agency or court to vacate the residential real property.

(III) A local ordinance that necessitates vacating the residential real property.

(ii) If it is determined by any government agency or court that the tenant is at fault for the condition or conditions triggering the order or need to vacate under clause (i), the tenant shall not be entitled to relocation assistance as outlined in paragraph (3) of subdivision (d).

(D) (i) Intent to demolish or to substantially remodel the residential real property.

(ii) For purposes of this subparagraph, “substantially remodel” means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as substantial rehabilitation.

(c) Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.

(d) (1) For a tenancy for which just cause is required to terminate the tenancy under subdivision (a), if an owner of residential real property issues a termination notice based on a no-fault just cause described in paragraph (2) of subdivision (b), the owner shall, regardless of the tenant’s income, at the owner’s option, do one of the following:

(A) Assist the tenant to relocate by providing a direct payment to the tenant as described in paragraph (3).

(B) Waive in writing the payment of rent for the final month of the tenancy, prior to the rent becoming due.

(2) If an owner issues a notice to terminate a tenancy for no-fault just cause, the owner shall notify the tenant of the tenant’s right to relocation assistance or rent waiver pursuant to this section. If the owner elects to waive the rent for the final month of the tenancy as provided in subparagraph (B) of paragraph (1), the notice shall state the amount of rent waived and that no rent is due for the final month of the tenancy.

(3) (A) The amount of relocation assistance or rent waiver shall be equal to one month of the tenant’s rent that was in effect when the owner issued

the notice to terminate the tenancy. Any relocation assistance shall be provided within 15 calendar days of service of the notice.

(B) If a tenant fails to vacate after the expiration of the notice to terminate the tenancy, the actual amount of any relocation assistance or rent waiver provided pursuant to this subdivision shall be recoverable as damages in an action to recover possession.

(C) The relocation assistance or rent waiver required by this subdivision shall be credited against any other relocation assistance required by any other law.

(4) An owner's failure to strictly comply with this subdivision shall render the notice of termination void.

(e) This section shall not apply to the following types of residential real properties or residential circumstances:

(1) Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940.

(2) Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or an adult residential facility, as defined in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the State Department of Social Services.

(3) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.

(4) Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.

(5) Single-family owner-occupied residences, including a residence in which the owner-occupant rents or leases no more than two units or bedrooms, including, but not limited to, an accessory dwelling unit or a junior accessory dwelling unit.

(6) A duplex in which the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy.

(7) Housing that has been issued a certificate of occupancy within the previous 15 years.

(8) Residential real property that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

(A) The owner is not any of the following:

(i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(ii) A corporation.

(iii) A limited liability company in which at least one member is a corporation.

(B) (i) The tenants have been provided written notice that the residential property is exempt from this section using the following statement:



“This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”

(ii) For a tenancy existing before July 1, 2020, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.

(iii) For any tenancy commenced or renewed on or after July 1, 2020, the notice required under clause (i) must be provided in the rental agreement.

(iv) Addition of a provision containing the notice required under clause (i) to any new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1) of subdivision (b).

(9) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.

(f) An owner of residential real property subject to this section shall provide notice to the tenant as follows:

(1) For any tenancy commenced or renewed on or after July 1, 2020, as an addendum to the lease or rental agreement, or as a written notice signed by the tenant, with a copy provided to the tenant.

(2) For a tenancy existing prior to July 1, 2020, by written notice to the tenant no later than August 1, 2020, or as an addendum to the lease or rental agreement.

(3) The notification or lease provision shall be in no less than 12-point type, and shall include the following:

“California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all of the tenants have continuously and lawfully occupied the property for 12 months or more or at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to terminate a tenancy. See Section 1946.2 of the Civil Code for more information.”

The provision of the notice shall be subject to Section 1632.

(g) (1) This section does not apply to the following residential real property:

(A) Residential real property subject to a local ordinance requiring just cause for termination of a residential tenancy adopted on or before September 1, 2019, in which case the local ordinance shall apply.

(B) Residential real property subject to a local ordinance requiring just cause for termination of a residential tenancy adopted or amended after September 1, 2019, that is more protective than this section, in which case the local ordinance shall apply. For purposes of this subparagraph, an ordinance is “more protective” if it meets all of the following criteria:

(i) The just cause for termination of a residential tenancy under the local ordinance is consistent with this section.

(ii) The ordinance further limits the reasons for termination of a residential tenancy, provides for higher relocation assistance amounts, or provides additional tenant protections that are not prohibited by any other provision of law.

(iii) The local government has made a binding finding within their local ordinance that the ordinance is more protective than the provisions of this section.

(2) A residential real property shall not be subject to both a local ordinance requiring just cause for termination of a residential tenancy and this section.

(3) A local ordinance adopted after September 1, 2019, that is less protective than this section shall not be enforced unless this section is repealed.

(h) Any waiver of the rights under this section shall be void as contrary to public policy.

(i) For the purposes of this section, the following definitions shall apply:

(1) “Owner” and “residential real property” have the same meaning as those terms are defined in Section 1954.51.

(2) “Tenancy” means the lawful occupation of residential real property and includes a lease or sublease.

(j) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

SEC. 3. Section 1947.12 is added to the Civil Code, to read:

1947.12. (a) (1) Subject to subdivision (b), an owner of residential real property shall not, over the course of any 12-month period, increase the gross rental rate for a dwelling or a unit more than 5 percent plus the percentage change in the cost of living, or 10 percent, whichever is lower, of the lowest gross rental rate charged for that dwelling or unit at any time during the 12 months prior to the effective date of the increase. In determining the lowest gross rental amount pursuant to this section, any rent discounts, incentives, concessions, or credits offered by the owner of such unit of residential real property and accepted by the tenant shall be excluded. The gross per-month rental rate and any owner-offered discounts, incentives, concessions, or credits shall be separately listed and identified in the lease or rental agreement or any amendments to an existing lease or rental agreement.

(2) If the same tenant remains in occupancy of a unit of residential real property over any 12-month period, the gross rental rate for the unit of residential real property shall not be increased in more than two increments over that 12-month period, subject to the other restrictions of this subdivision governing gross rental rate increase.

(b) For a new tenancy in which no tenant from the prior tenancy remains in lawful possession of the residential real property, the owner may establish the initial rental rate not subject to subdivision (a). Subdivision (a) is only applicable to subsequent increases after that initial rental rate has been established.

(c) A tenant of residential real property subject to this section shall not enter into a sublease that results in a total rent for the premises that exceeds the allowable rental rate authorized by subdivision (a). Nothing in this subdivision authorizes a tenant to sublet or assign the tenant's interest where otherwise prohibited.

(d) This section shall not apply to the following residential real properties:

(1) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.

(2) Dormitories constructed and maintained in connection with any higher education institution within the state for use and occupancy by students in attendance at the institution.

(3) Housing subject to rent or price control through a public entity's valid exercise of its police power consistent with Chapter 2.7 (commencing with Section 1954.50) that restricts annual increases in the rental rate to an amount less than that provided in subdivision (a).

(4) Housing that has been issued a certificate of occupancy within the previous 15 years.

(5) Residential real property that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

(A) The owner is not any of the following:

(i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(ii) A corporation.

(iii) A limited liability company in which at least one member is a corporation.

(B) (i) The tenants have been provided written notice that the residential real property is exempt from this section using the following statement:

“This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections

1947.12 (c)(5) and 1946.2 (e)(7) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”

(ii) For a tenancy existing before July 1, 2020, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.

(iii) For a tenancy commenced or renewed on or after July 1, 2020, the notice required under clause (i) must be provided in the rental agreement.

(iv) Addition of a provision containing the notice required under clause (i) to any new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1) of subdivision (b) of Section 1946.2.

(6) A duplex in which the owner occupied one of the units as the owner’s principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy.

(e) An owner shall provide notice of any increase in the rental rate, pursuant to subdivision (a), to each tenant in accordance with Section 827.

(f) (1) On or before January 1, 2030, the Legislative Analyst’s Office shall report to the Legislature regarding the effectiveness of this section and Section 1947.13. The report shall include, but not be limited to, the impact of the rental rate cap pursuant to subdivision (a) on the housing market within the state.

(2) The report required by paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(g) For the purposes of this section, the following definitions shall apply:

(1) “Owner” and “residential real property” shall have the same meaning as those terms are defined in Section 1954.51.

(2) “Percentage change in the cost of living” means the percentage change from April 1 of the prior year to April 1 of the current year in the regional Consumer Price Index for the region where the residential real property is located, as published by the United States Bureau of Labor Statistics. If a regional index is not available, the California Consumer Price Index for All Urban Consumers for all items, as determined by the Department of Industrial Relations, shall apply.

(3) “Tenancy” means the lawful occupation of residential real property and includes a lease or sublease.

(h) (1) This section shall apply to all rent increases subject to subdivision (a) occurring on or after March 15, 2019. This section shall become operative January 1, 2020.

(2) In the event that an owner has increased the rent by more than the amount permissible under subdivision (a) between March 15, 2019, and January 1, 2020, both of the following shall apply:

(A) The applicable rent on January 1, 2020, shall be the rent as of March 15, 2019, plus the maximum permissible increase under subdivision (a).

(B) An owner shall not be liable to the tenant for any corresponding rent overpayment.

(3) An owner of residential real property subject to subdivision (a) who increased the rental rate on that residential real property on or after March 15, 2019, but prior to January 1, 2020, by an amount less than the rental rate increase permitted by subdivision (a) shall be allowed to increase the rental rate twice, as provided in paragraph (2) of subdivision (a), within 12 months of March 15, 2019, but in no event shall that rental rate increase exceed the maximum rental rate increase permitted by subdivision (a).

(i) Any waiver of the rights under this section shall be void as contrary to public policy.

(j) This section shall remain in effect until January 1, 2030, and as of that date is repealed.

(k) (1) The Legislature finds and declares that the unique circumstances of the current housing crisis require a statewide response to address rent gouging by establishing statewide limitations on gross rental rate increases.

(2) It is the intent of the Legislature that this section should apply only for the limited time needed to address the current statewide housing crisis, as described in paragraph (1). This section is not intended to expand or limit the authority of local governments to establish local policies regulating rents consistent with Chapter 2.7 (commencing with Section 1954.50), nor is it a statement regarding the appropriate, allowable rental rate increase when a local government adopts a policy regulating rent that is otherwise consistent with Chapter 2.7 (commencing with Section 1954.50).

(3) Nothing in this section authorizes a local government to establish limitations on any rental rate increases not otherwise permissible under Chapter 2.7 (commencing with Section 1954.50), or affects the existing authority of a local government to adopt or maintain rent controls or price controls consistent with that chapter.

SEC. 4. Section 1947.13 is added to the Civil Code, to read:

1947.13. (a) Notwithstanding Section 1947.12, upon the expiration of rental restrictions, the following shall apply:

(1) The owner of an assisted housing development who demonstrates, under penalty of perjury, compliance with all applicable provisions of Sections 65863.10, 65863.11, and 65863.13 of the Government Code and any other applicable law or regulation intended to promote the preservation of assisted housing, may establish the initial unassisted rental rate for units in the applicable housing development. Any subsequent rent increase in the development shall be subject to Section 1947.12.

(2) The owner of a deed-restricted affordable housing unit or an affordable housing unit subject to a regulatory restriction contained in an agreement with a government agency limiting rental rates that is not within an assisted housing development may establish the initial rental rate for the unit upon the expiration of the restriction. Any subsequent rent increase for the unit shall be subject to Section 1947.12.

(b) For purposes of this section:

(1) “Assisted housing development” has the same meaning as defined in paragraph (3) of subdivision (a) of Section 65863.10 of the Government Code.

(2) “Expiration of rental restrictions” has the same meaning as defined in paragraph (5) of subdivision (a) of Section 65863.10 of the Government Code.

(c) This section shall remain in effect until January 1, 2030, and as of that date is repealed.

(d) Any waiver of the rights under this section shall be void as contrary to public policy.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## STAFF REPORT

### City Council

**Meeting Date:** 11/12/2019

**Staff Report Number:** 19-228-CC

**Regular Business:** Award a contract to LDV Specialty Vehicles in the amount of \$478,776.50 for the purchase of one mobile command vehicle

### Recommendation

Staff recommends that the City Council award a contract to LDV Specialty Vehicles in the amount of \$478,776.50 for the purchase of one mobile command vehicle.

### Policy Issues

The City Council must authorize the city manager to enter into this agreement, since the cost of the proposed service is above the city manager's spending authority. This proposed action is consistent with City policy.

### Background

On June 18, the City Council approved Resolution No. 6507, adopting the fiscal year 2019-2020 budget and capital improvement plan and also appropriating funds. The service level enhancements in that approved budget included a mobile command vehicle for emergency operations.

On October 10 staff solicited proposals for a mobile command vehicle (MCV) through the formal request for proposals (RFP) process. The RFP process was advertised on the City's website, and 10 vendors were notified. Bids were due and opened October 21. Two proposals were received and reviewed, one from LDV Specialty Vehicles for \$478,776.50 and one from Farber Specialty Vehicles for \$545,309.00.

### Analysis

A MCV is a critical element utilized by public safety agencies during various incidents including, training events, public engagement events, preplanned and spontaneous law enforcement activities, and natural and human caused critical incidents. Use of an MCV serves several functions. An MCV allows for enhanced communication capabilities, placing dispatch personnel in an enclosed area near an incident to pass information from officers on the scene to supervisors, to share information with other agencies involved in the incident, as well as communicating with the public, and the media.

An MCV also provides a secure area for meetings with dry erase boards, computers, phones, radios and monitors at the ready. These meetings allow the flow of information between allied agencies, city officials, and other stake holders during an incident. Other uses for private spaces during an event include witness and victim interviews, review of sensitive information, planning for phase transitions during the course of an incident, as well as providing a location for event participants to rest. Additionally, an MCV can provide a self-contained power supply for an extended period of time, running dispatch terminals, radios and charging

personal communication devices.

The Menlo Park police department is not currently equipped with a MCV, therefore when a command post is needed, the police watch commander vehicle is used. The watch commander vehicle is a Ford Explorer with a mobile data terminal, radios, and a small dry erase board in the cargo area. This option has proven inadequate for all but minor events. With Facebook, SRI, and a host of venture capital and biotechnical research firms, there is a realistic probability of a mass-casualty event occurring within our jurisdiction. It is not a question of "if," but of "when" a major event requiring enhanced command and control capabilities will take place. The addition of a MCV will greatly strengthen our effectiveness in the management of an event and in the mitigation of the event's impact to our community.

### **Impact on City Resources**

The funding of this project will use the supplemental law enforcement services (SLESF/COPS) fund balance and borrow COPS funding from the capital improvement project (CIP) fund, for the next three years. Currently the SLESF fund has approximately \$160,000. The remaining \$319,000 will be borrowed from the CIP fund and will be paid by SLESF grant funding in fiscal year 19-20, 20-21 and 21-22.

### **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. Neighboring agency vehicle information
- B. Exterior photographs of other LDV vehicles
- C. Interior photographs of other LDV vehicles

Report prepared by:  
Sergeant Aaron Dixon

Report reviewed by:  
Chief Dave Bertini



San Mateo County Sheriff's Office

Special Operating License Required:	Yes
Vendor:	LDV
Cost:	\$875,000
Size:	40 ft.

Palo Alto Police Department

Special Operating License Required:	Yes
Vendor:	LDV
Cost:	\$1,000,000
Size:	40 ft.

Menlo Park Fire Protection District

Special Operating License Required:	No
Vendor:	Nomad Global Communication Solutions
Cost:	\$400,000
Size:	25 ft.

Recommended Mobile Command Vehicle – City of Menlo Park

Special Operating License Required:	No
Vendor:	LDV
Cost:	\$478,776.50
Size:	35 ft.



Morgan Hill/Gilroy Police Departments



Mountain View Police Department



Hayward Police Department



East Bay Regional Parks



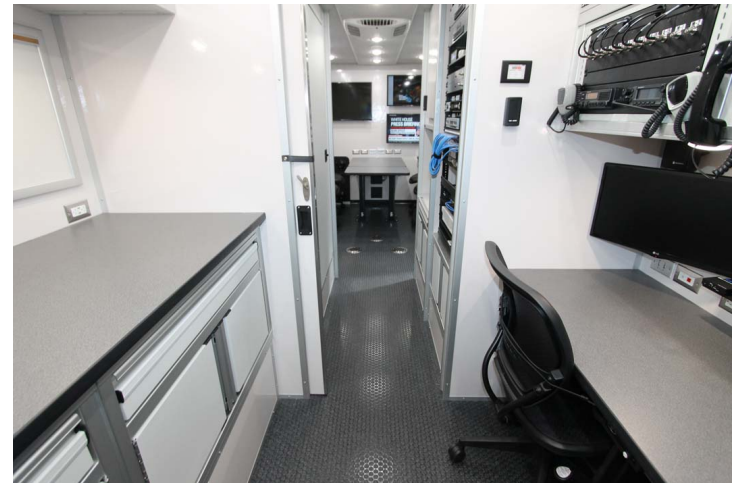
Morgan Hill/Gilroy Police Departments



Mountain View Police Department



Hayward Police Department



East Bay Regional Parks

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**STAFF REPORT**

**City Council**

**Meeting Date:**

**11/12/2019 – CONTINUED FROM 11/5/2019**

**Staff Report Number:**

**19-237-CC**

**Informational Item:**

**Update on small business roundtable and economic development consultant services**

**Recommendation**

This is an informational item and does not require City Council action.

**Policy Issues**

The City Council accepted the economic development plan July 21 July 21, 2015, in an effort to make Menlo Park more competitive in the regional and global economy. The plan focused on the City's current efforts to support the business community, while also recommending opportunities for improvement. As part of the implementation, some of the strategies have been incorporated into long range planning efforts while others will be stand-alone policy initiatives.

**Background**

In response to one of the City Council's goals in 2014, staff worked with Up Urban Inc. to take a comprehensive look at the City's economic situation and develop a strategy to take advantage of strengths and fortify weaknesses. Up Urban Inc. relied on a comparative economic advantage study (CEAS) to develop the plan. The CEAS analyzed Menlo Park's existing economic conditions in comparison to other Bay Area cities, characterized the role Menlo Park plays in the regional economy, identified areas where Menlo Park could improve in order to become more competitive, and examined how other cities are attempting to capture the value of development in their community. The City Council first approved economic development goals in January 2015 followed by approval of an economic development plan in July 2015.

In order to fulfill goals of the economic development plan, staff explored the services of a number of consultants that could assist with developing a comprehensive retail plan. Staff identified Buxton Co. due to their unique ability to both develop and help execute a comprehensive retail plan. On December 6, 2016, staff asked the City Council for authorization to execute a contract with Buxton and appropriate \$60,000 from reserves for that purpose. That motion passed 3-0 with two members absent. However, the contract with Buxton was never executed.

This update is in response to direction staff received at the September 24 City Council meeting. In the process of passing a local minimum wage ordinance in Menlo Park, the City Council directed staff to examine how the City could help small businesses in the face of rising labor costs, commercial rents, and the pricing and convenience of online shopping.



## **Analysis**

In response to City Council direction, staff intends to explore a two-pronged approach. Staff proposes to conduct a small business roundtable with the goal of identifying the issues most important to small businesses in the City. This will inform and direct future programs intended to support small businesses. Additionally, to encourage vibrancy and fill downtown vacancies, staff will re-engage with Buxton to explore services associated with retail retention, attraction and support services.

### Small business roundtable

The purpose of a small business roundtable would be to provide staff with a greater understanding of the needs of small businesses throughout the City and the issues affecting them. Staff will target employers in the City with 50 or less employees for this meeting. Flyers will be sent out using data from business licenses and a door-to-door ground campaign will be utilized to ensure broad knowledge of the roundtable. The City will also work closely with the Menlo Park Chamber of Commerce in coordinating these efforts. The focus will be on the retail, restaurant and service sectors. Staff is targeting early 2020 to conduct the roundtable. Ultimately, staff plans to use this discussion to develop more effective economic development programs. Depending on the reception and success of the roundtable, there is the possibility that it could continue to meet on a regular basis. Staff will provide an update to the City Council following the roundtable meeting.

### Buxton report

The economic development plan is built on 11 goals that were developed through a community input process and approved by the City Council. Specifically, working with Buxton would be consistent with economic development plan goals No. 1 (diversify and grow city revenue sources,) No. 4 (activate downtown) and No. 6 (capture the economic potential of “pass-through” traffic,) which relate to the need to improve the retail environment in the City. The economic development plan’s CEAS identifies significant retail leakage from Menlo Park and our need to increase the opportunities for retail development as well as proactive retail recruitment activities. Capturing a larger portion of the City’s significant pass-through traffic by getting them out of their cars and walking Santa Cruz Avenue and other shopping centers is a positive for all parties. The data and strategies from the Buxton study would assist the City with enhancing the vibrancy of downtown through new retail offerings and is important to recruit additional retail to the Belle Haven Neighborhood and throughout the City.

Buxton offers a variety of add-on services to their base package that staff will explore. Potential add-on services include the visitor insights package and the LSMx licenses. The Visitor Insights package analyzes 12 months of Visa expenditures to give the City detailed information that may help address our retail leakage issue and capture the economic benefits of pass-through traffic. LSMx licenses are a business retention tool that can give our smaller retailers access to the same high-tech and focused marketing tools that online and larger retailers already use. While staff is committed to exploring these potential add-on services, the goal would be to both ensure that these services provide value to our businesses and keeping the cost of the services at or under \$60,000, which was the previously approved appropriation by City Council for the study. The small business roundtable could present an ideal venue to vet the value of these services to the small business community.

## **Impact on City Resources**

The small business roundtable will utilize staff time and resources to organize the discussion and follow up on the issues raised by participants.

Staff will re-engage with Buxton to get an updated scope of services as well as to explore the add-on

services. The original bid was for \$60,000 (Attachment A,) and staff intends to keep the cost of services at approximately that level.

### **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. Buxton Contract – 2016
- B. Hyperlink – Economic development plan: [menlopark.org/DocumentCenter/View/11977/Final-Menlo-Park-Economic-Development-Plan](http://menlopark.org/DocumentCenter/View/11977/Final-Menlo-Park-Economic-Development-Plan)

Report prepared by:  
John Passmann, Management Analyst II

Report reviewed by:  
Deanna Chow, Interim Community Development Director



Proposal

# RETAIL RECRUITMENT SOLUTION

Prepared by: Lisa McCay  
Expiration: December 15, 2016





# OUR VALUE PROPOSITION

Since our founding in 1994, Buxton® has been a leading force in retail site and development. We are recognized for creating solutions that provide results. Buxton began as a service to help retailers make informed site selection decisions by understanding their customers and precisely determining their markets. Buxton soon realized that the company's expertise in retail site and market analysis could also be leveraged to benefit communities desiring retail expansion.

**BUXTON'S AWARDS & HONORS**

 Named to "The List of People Shaping Retail's Future"	 Most Innovative Company of the Year	 #2 on the Fast 50	 Customer Service Department of the Year	
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More than simply providing data, Buxton supplies custom marketing materials and strategies targeting the unique site requirements of retailers, developers, and commercial real estate brokers. Buxton clients achieve outstanding success using our tools for retail identification, selection, and recruitment. Clients benefit from Buxton's unique understanding of site selection from the retailer's point of view.

- **Grow Your Community.** Create new, permanent jobs that will satisfy your citizens desire to shop at home; retain dollars currently spent outside of your community and maximize revenue growth to fund city services
- **Leverage Buxton's Retail Industry Expertise.** Establish credibility with decision makers by providing factual evidence to support your site and gain a competitive position by leveraging our experience:
  - 3500+ total clients from the retail, restaurant, healthcare, and public sector industries
  - 700+ public sector clients nationwide
  - 35+ million square feet of retail space
  - 500+ cumulative years of retail management and economic development experience
- **Access Your Buxton Solution with Ease.** Utilize your best-in-class retail recruitment solution via SCOUT™ with the touch of a button from any mobile device; gain answers to your retail recruitment and site analysis questions and have the big picture in the palm of your hand
- **Develop a Long-Term Partnership.** Receive personal guidance and ongoing insight into key industry topics

# SCOPE OF SERVICES

Buxton is pleased to present this proposal to Menlo Park, CA. The purpose of this proposal is to outline and review your community development objectives and how Buxton's solutions will enhance your ability to effectively meet those objectives.

## Menlo Park, CA's Objectives:

1. Recruit new retailers and restaurants
2. Retain existing retailers and restaurants
3. Understand current retail and restaurant economic condition

## Retail Recruitment and Retention Solution: Your Community Profile

Our solution is a total marketing strategy that enables community leaders to understand the consumer profile of their residents and to identify specific retailers and restaurants who seek a market with household purchasing habits just like yours. This solution provides you with the ability to actively pursue identified retailers, making a compelling case for their expansion to Menlo Park, CA by utilizing custom marketing packages that Buxton will create for you. You will have access to the same analytical information and insights retailers depend on today to make site selection decisions. This knowledge will provide you with instant credibility and the ability to differentiate your community.

### Step 1 – Research Your Community

Buxton uses over 250 consumer and business databases that are updated regularly and compares your potential sites to the universe of all competing sites operating in the U.S. We define your current retail situation and those in any neighboring communities that impact your retail environment.

### Step 2 – Define and Evaluate Your Trade Area

Customers shop by convenience, measuring distance based on time, not mileage. We will conduct a custom drive-time analysis to determine your trade area using our proprietary methodology and knowledge of individual retail clients' actual trade areas. Your drive-time trade area will be provided to you as a map that accurately depicts your consumer shopping patterns.

### Step 3 – Profile Your Trade Area's Residential Customers

Your community profile will analyze every household in your drive-time trade area. Based on more than 7,500 categories of lifestyles, purchase behaviors, and media reading and viewing habits (psychographics), the households in your trade area are assessed to gain an understanding of the types of retailers that would be attracted to your site.

### Step 4 – We Match Retailers and Restaurants to Market Potential

Buxton will match the consumer profile of your community's trade area against the customer profiles of 5,000+ retailers in our proprietary database. We will identify the similarity between the two profiles analyzed using Buxton's proprietary retail matching algorithm to determine if your site presents an attractive opportunity for each retailer. We then qualify the list of matched results to verify that a retailer is currently operating or expanding, that they operate in similar sites, and that your site affords adequate buffer from competition and cannibalization to be realistically considered.

### **Step 5 – We Create Marketing Packages**

Buxton will assemble individualized marketing packages for up to twenty (20) targeted retailers. We will notify each retailer’s key real estate decision maker by letter, informing them that they have been qualified by Buxton as a potential viable fit for your site and should expect to be contacted by a representative of the city.

Your marketing packages will be delivered to you in SCOUT and include a:

1. Map of the retail site and trade area
2. Map of the retailer’s potential customers
3. Retailer match report that compares the site’s trade area characteristics and consumer profile with the retailer’s sites in similar trade areas

#### **Solution Deliverables:**

- SCOUT Touch access
- Drive time trade area maps
- Retail site assessment
- Retailer specific marketing packages (for up to twenty (20) retailers)
- Mobile tablet device at completion with pre-loaded findings

#### **Multi Year Deliverables:**

Years 2 and 3 of this agreement will include a Retail Recruitment model refresh, retail marketing packages, and full access to SCOUT and SCOUT Touch.

## Access and Use Your Retail Recruitment Solution via SCOUT Touch

Buxton's Retail Recruitment solution will allow you to actively recruit retailers to your community and support existing businesses with the push of a button in SCOUT Touch, providing you with crucial information about your community, your trade areas, your residents, and much more. SCOUT is a web-based platform that is accessible on any Windows or iOS enabled device with an Internet connection. It is designed to give decision-makers in your community access to the data and solutions that will assist them in making better business decisions. The Retail Recruitment solution includes one (1) mobile tablet device that will be provided at completion and pre-loaded with all key findings. This mobile tablet device, possession of Menlo Park, CA, enables four (4) SCOUT users with the ability to **run demographic and trade area profile reports**, and view maps and other data elements.

**Identifying and quantifying key variables that impact your community**, you will acquire insights from these findings that will provide you with a strong understanding of retail recruitment and business retention efforts. In Buxton's SCOUT Touch you will be able to:

- Identify retail matches
- Run variable reports
- View city limit maps
- Run healthcare reports
- Run demographic & consumer propensity reports
- See aerial view
- View physician intelligence
- Run comparable reports
- Run retail leakage/surplus reports



# SUPPORT

## SCOUT Technical Requirements

SCOUT can be accessed at the following URL: [www.buxtonco.com](http://www.buxtonco.com)

SCOUT is a web-based platform accessible on any desktop, laptop, or mobile tablet device that has an Internet connection. An iPad Air 2 is suggested by Buxton to give you the best user experience. Android tablets are not supported by Buxton's Helpdesk. Minimum browser requirements are Internet Explorer 10, Safari 5, Chrome 21, or Firefox 14.

## Buxton's Helpdesk

(1-817-332-3681) is available during normal office hours (8:00 AM-5:30 PM CST, excluding weekends and public holidays). Buxton's Helpdesk team will be available to support all educational, functional, and technical inquiries and will respond to all requests within twenty-four (24) hours of submission.

Buxton's Helpdesk

Monday – Friday: 8:00 am – 5:30 pm CST

**1-817-332-3681**

# TERM, FEES, AND DELIVERY

## Annual Fees

## Agreement Terms

**Year 1 Fee** (50% invoiced upon execution of this agreement; 50% invoiced upon targeted retailer identification) \$60,000

**Year 2 Fee** (Invoiced 1<sup>st</sup> anniversary of this agreement) \$50,000

**Year 3 Fee** (Invoiced 2<sup>nd</sup> anniversary of this agreement) \$50,000

**Delivery** Menlo Park, CA will have access to retail match lists and marketing packages within sixty (60) business days of execution.

Your SCOUT access will be enabled within ten (10) business days of the execution of this agreement. Menlo Park, CA will have access to retail match lists and marketing packages within sixty (60) business days of execution. The initial term of this agreement is for three (3) years with services invoiced annually. However, at any time during this initial 3-year term, Menlo Park, CA may cancel services for the following year by providing written notice to Buxton at least sixty (60) days in advance of a yearly renewal. If Menlo Park, CA cancels services prior to the expiration of the initial term, Menlo Park will be invoiced 10% of the total remaining balance. All service fees associated with this agreement are due in net (10) days of the date of the invoice. Execution of this agreement will act as full consent that Buxton may include Menlo Park, CA on its client list and in presentations and public relations efforts. Additionally, Buxton may issue a press release announcing Menlo Park, CA as a client. When doing so, Buxton will not reveal information that is confidential and proprietary to Menlo Park, CA.

### Buxton

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

### Menlo Park, CA

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

Please provide us with a primary point of contact for invoice receipt.

**Name:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Email:** \_\_\_\_\_

Preferred Method of Receipt: Email OR U.S. Mail

Please provide us with a primary point of contact.

**Name:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Email:** \_\_\_\_\_

## ADDITIONAL RECOMMENDED SOLUTIONS

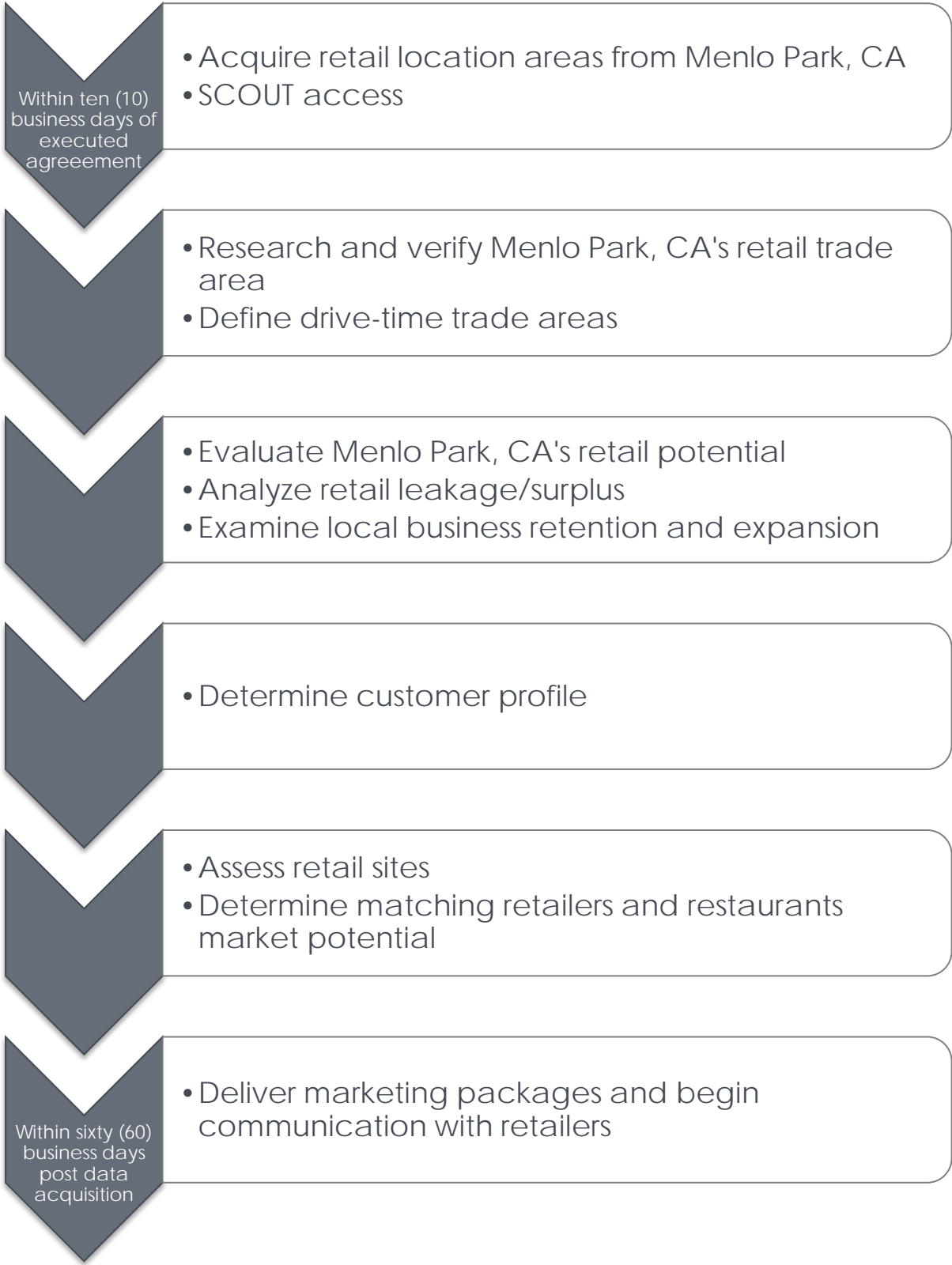


Visitor Insights - \$10,000

Buxton can develop unique profiles of your visitors by analyzing all Visa expenditures for a recent twelve (12) month period where the cardholder's originating address is located outside the designated regions. Expenditures are consolidated at the ZIP+4 level so as to de-identify individual cardholder information and respect card-holder privacy laws while still providing Buxton with a way to develop an accurate visitor profile of the visitors to Menlo Park, CA. This solution will provide you with insights into more than 7,500 categories of lifestyles, purchase behaviors, and media reading and viewing habits of your visitors.

Next Page: Project Schedule

# PROJECT TIMELINE







**STAFF REPORT – CONTINUED FROM 10/29/2019 AND 11/5/2019**

**City Council**

**Meeting Date:** 11/12/2019

**Staff Report Number:** 19-224-CC

**Informational Item:** Downtown street café program update

**Recommendation**

This is an informational item and does not require City Council action.

**Policy Issues**

The Downtown street café program was developed following the adoption of the El Camino Real/Downtown specific plan to support the City Council's goal of enhancing vibrancy in the downtown.

**Background**

During the 2014 City Council goal setting meeting, the City Council discussed opportunities to enhance outdoor seating as a valuable tool for increasing vibrancy on Santa Cruz Avenue and supporting local merchants. On March 25, 2014, the City hosted a meeting with a number of downtown merchants who were interested in discussing opportunities for improving downtown. The discussion included additional public events, capital improvement projects and enhanced outdoor seating opportunities. The merchants were supportive of the concept of an outdoor seating pilot program and pointed to Mountain View as a model. On May 13, 2014, the City Council unanimously approved the establishment and appropriation of the Santa Cruz Avenue enhanced on-street pilot program. As part of the pilot program, the City installed planters and landscaping to section off a seating area in front of Left Bank restaurant at 635 Santa Cruz Avenue.

On January 27, 2015, the City Council provided direction for the expansion of the enhanced on-street dining pilot program. Based on community input, business feedback and preliminary observation, sites that City Council considered included: Santa Cruz Avenue in front of Starbucks/Una Mas, Miyo Yogurt/Angelo Mio and Amici's, and Crane Street in front of Refuge. The City Council agreed that the existing Left Bank pilot program successfully enlivened the downtown retail experience. As a result, the City Council directed staff to expand the pilot program. The City Council direction was that the expansion be semi-permanent, include cost-sharing, and be open to all businesses.

The City retained the services of Ian Moore Design, Inc. (IMD) to provide a prototype design and initial cost estimates for a typical street café. Two base designs were developed to match the parking configurations downtown: one for parallel parking spaces and one for angled parking spaces. After extensive outreach, the general consensus of interested business owners was that a \$10,000 - \$15,000 investment would be feasible, and a \$20,000 investment would preclude most of those small businesses from participating. To keep the street cafe affordable for small businesses, staff presented a series of cost sharing options based on the initial cost estimates of \$30,000 for a parallel installation and \$40,000 for an angled installation.

On June 2, 2015, the City Council approved the base design concept and a cost-sharing requirement of 75 percent for parallel parking and 70 percent for angled parking with the participating business paying its

share upfront. An alternative payment option was also approved which would allow a business to pay through installments over a two-year timeframe with the City contributing 70 percent for parallel parking and 60 percent for angled parking. Both payment options carried a City maximum contribution of \$30,000 for any one street cafe. The cost for any enhancements beyond the base design were to be borne solely by the business.

Subsequently, final designs were developed, which accounted for site-specific conditions. The estimated construction costs had increased due to a general increase in the size of the café, safety features and disabled accessibility requirements. For the various designs, the costs for the street cafes ranged from \$39,000 to \$88,000. The increased costs also affected the feasibility of businesses to participate. Recognizing the value of the program, the cost-sharing approach was modified to increase the maximum City contribution amount. On May 24, 2016, the City Council approved the following:

1. Increased the Downtown streetscape improvement budget for fiscal year 2016-17 based on the engineer's estimate;
2. Authorized the city manager to award construction contracts up to the budgeted amount;
3. Authorized the city manager to enter into license and funding agreements with the business owners;
4. Approved a 80-20 percentage cost split with the City contributing 80 percent and the business 20 percent for the base design with a City maximum contribution of \$45,000; and
5. Directed staff to advance the project into construction.

On September 13, 2016, the City Council authorized the city manager to eliminate the cap on the City's contribution and increase the term of the agreements from three years to five years. Additionally, two options for repayment were established. Business owners could pay upfront and receive an 80-20 cost-share with the City or over three years with a 75-25 split.

Currently, the City has seven street cafés along Santa Cruz Avenue in the downtown area. The program has successfully enhanced downtown vibrancy and character while also improving the retention of downtown businesses, particularly restaurants.

## Analysis

Following the latest round of street cafés completed in 2017, the City has not actively sought out suitable sites to expand the program. However, staff has received and followed up on a few inquiries for expanding the program. Among those inquiries, there are two locations that have expressed interest in moving forward: the Refuge at 1143 Crane Street and Coffeebar at 1149 Chestnut Street. The Refuge was first explored as a potential site for a street café in 2014 while Coffeebar expressed interest in the program in 2018. However, key vacancies with the City did not allow for execution on any additional street cafés until now. Additional street cafes would contribute to vibrancy and economic activity in Downtown Menlo Park. A street café at these locations would meet the original intent in regards to downtown vibrancy while also helping the City retain desirable and popular business establishments.

The following sets out the relevant milestones and timeline that staff has estimated for the completion of the street café at these sites:

- The City will contract with a designer to prepare construction-ready drawings and specifications for the project. The proposed street cafes would be the first on side streets, which may provide an opportunity to explore different designs. (Estimated completion: four to five months)
- Staff will return to City Council to authorize the city manager to enter into a funding/licensing agreement with each business owner for the street cafe. (November-December 2019)

- Staff will present to the Complete Streets Commission for approval to remove the necessary parking spots to complete the cafes. It is anticipated that 2 parallel spaces at each location would require removal. (January – February 2020)
- City issues a request for bids and City Council awards construction contracts. (Estimated completion: three-months)
- Funding agreements are executed and street cafés are built. (Estimated completion: two to three months)
- Total estimated time to completion nine to 11 months

Staff proposes to take a similar approach in cost-sharing as with previous street café locations. While the exact costs will not be known until bids are accepted, early estimates put the business contributions somewhere between \$15,000 and \$18,000 each depending on the funding option the merchants chooses. They will have the option of paying up front with an 80-20 split with the City or paying over the course of three years with a 75-25 split. The business owners have indicated that this is an acceptable cost. At a total estimated cost of \$150,000 for construction of the street cafés, this would leave the City's obligation in the range of \$112,500 to \$120,000.

The City will enter into a five-year agreement with each business. The funding/licensing agreements outline how the City would be reimbursed for its upfront construction costs as well as how the use of the street café would be licensed. Use of city utilities (such as electricity for lighting) would be granted based on a yearly fee paid by the business owner to cover costs. Maintenance of the street cafés would be the responsibility of the business owner. In the event of a change in ownership or un-renewed agreement, use and maintenance of the café would be returned to the City until a new agreement is completed.

Staff will return before the end of the year to seek the authority to award a construction contract and the authority to enter into an agreement with the business owner. In the meantime, construction-ready and site-specific designs will be developed for both sites in preparation for a request for bids. Staff is not aware of any other businesses interested in the program and will not actively pursue further street café sites unless given City Council direction to do so.

### **Impact on City Resources**

Preparation of construction-ready and site-specific designs will cost approximately \$20,000. Preparation and management of the project will require staff time and resources. Adequate funding is available in the Capital Improvement Program as part of the Downtown Streetscape Improvement project.

### **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**

None

Report prepared by:

John Passmann, Management Analyst II

Christopher Lamm, Assistant Public Works Director

Report reviewed by:

Deanna Chow, Interim Community Development Director